

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





# 76-1384

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----X  
UNITED STATES OF AMERICA,

Appellee,

-v-

REV. ALBERTO MEJIAS, MANUEL FRANCISCO  
PADILLA MARTINEZ, HENRY CIFUENTES-ROJAS,  
JOSE RAMIREZ-RIVERA, ESTELLA NAVAS,  
MARIO NAVAS and FRANCISCO CADENA,

Appellants.  
-----X

B  
P/S

JOINT APPENDIX TO BRIEFS  
FOR APPELLANTS

Appeal From A Judgment Of Conviction  
In The United States District Court  
For The Southern District Of New York

VOLUME I

John A. Ciampa, Esq.  
785 West End Avenue  
New York, New York 10025  
Attorney for Appellant  
Alberto Mejias

Ivan Fisher, Esq.  
431 Park Avenue  
New York, New York 10018  
Attorney for Appellant  
Francisco Cadena

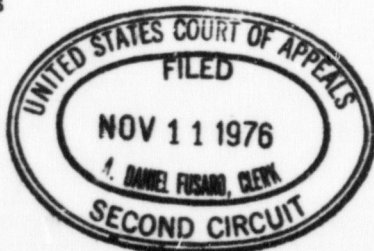
Howard L. Jacobs, P.C.  
401 Broadway  
New York, New York 10013  
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Estella Navas

Stuart Shaw, Esq.  
600 Madison Avenue  
New York, New York 10022  
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New York, New York 10013  
Attorney for Appellant  
Jose Ramirez-Rivera

Stokamer & Epstein, Esqs.  
100 Church Street  
New York, New York 10007  
Attorney for Appellant  
Mario Navas

William J. Gallagher, Esq.  
Federal Defender Services Unit  
The Legal Aid Society  
United States Courthouse  
Foley Square  
New York, New York 10007  
Attorney for Appellant  
Manuel Francisco Padilla  
Martinez



PAGINATION AS IN ORIGINAL COPY

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Volume I

Docket Entries	A 1
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# Docket Entries A 1

U.S. DISTRICT COURT - CRIMINAL DOCKET		Case Filed Day, Mo. Yr.	Docket No.
Felony <input checked="" type="checkbox"/> JUDGE/ Offense <input checked="" type="checkbox"/> MAGISTRATE Misdemeanor <input checked="" type="checkbox"/> 0208/1	Assigned Trial 0357 Dispos./Sentence	19 02 76	0164
U.S. vs. MEJIAS, ALBERTO REV., a/k/a Rev. Angel Ortiz, a/k/a Rev. Ronald Powell		No. of 10 Defendants	

CHARGES	U.S. CODE SECTION 21:846 21:812,841	OFFENSES Consp to viol. Fed. Marco. Laws Distr. & possess. of cocaine II	COPIES 1 \$4	MAGR. CASE NO. 76-239
				<input type="checkbox"/> RELEASE <input type="checkbox"/> Personal Reco <input type="checkbox"/> Denied <input type="checkbox"/> Unsecured Bo <input type="checkbox"/> AMT - Conditional Release <input type="checkbox"/> Set (1000) <input type="checkbox"/> \$ 2 <input type="checkbox"/> 10% Dep <input type="checkbox"/> Surety 3 <input type="checkbox"/> Collater <input type="checkbox"/> 3rd Party <input type="checkbox"/> Custody <input type="checkbox"/> PSA (See Docket)

U.S. Attorney or Asst. Michael Q. Carey 791-0068	Defense: <input checked="" type="checkbox"/> J.A. <input type="checkbox"/> Ret. <input type="checkbox"/> Waived <input type="checkbox"/> Self <input type="checkbox"/> None <input type="checkbox"/> Other <input type="checkbox"/> PO <input type="checkbox"/> CO John Ciampa, 785 West End Ave, N.Y.C. 10025 662-6429
--	--

ARREST 2-19-76 High Risk Cefn. & Data Design'd	INDICTMENT Information 2-19-76 Waived <input type="checkbox"/> Superseding Indict/Info <input type="checkbox"/>	ARRAIGNMENT 1st Plea Final Plea	TRIAL Trial Set For Vair Dire <input type="checkbox"/> Trial Began <input type="checkbox"/> Trial Ended <input type="checkbox"/>	SENTENCE Disposition Convicted <input type="checkbox"/> Acquitted <input type="checkbox"/> Dismissed <input type="checkbox"/> Notified/Discontinued <input type="checkbox"/>
--	--	---------------------------------------	--	---

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
Summons	Issued			PRELIMINARY EXAMINATION OR REMOVAL HEARING		<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U. S. District Court AT:
Arrest Warrant	Served			<input type="checkbox"/> Waived <input type="checkbox"/> Not Waived <input type="checkbox"/> Intervening <input type="checkbox"/> Indictment		
COMPLAINT				Tape No.	INITIAL/No.	Magistrate's Initial
OFFENSE (In Complaint)						

Show last names and suffix numbers of other defendants on same indictment/information		V. Excludable Delay	
DATE	PROCEEDINGS	(a)	(b) (c) (d)
Mejias, et al.			
2-19-76	Filed indictment. B/W ordered. Tenney, J.		
2-23-76	Deft. pleads not guilty. Bail set by Magistrate is cont'd.		
2-26-76	Case assigned to Carter, J. for all purposes... Tenney, J. Filed the following papers rec'd from Magistrate Goettel: Docket Entry Sheet - CJA-23 Financial Affdvt - Appointment of Counsel - Disposition Sheet - Copy of Indictment.		
3-4-76	Fld Govt's Notice of Readiness for trial on or after 5-4-76.		
5-6-76	Filed Govt affdvt in opposition to motion to dismiss the indictment		
5-17-76	Deft Alberta Mejias (Atty John Ciampa present) plead not guilty through interpreters Richard Schoen, Julie Sayers, Manuel Ras, Dena Kohn Suppression hearing begun & continued		
5-19-76	Hearing cont'd		
5-20-76	Hearing cont'd		
5-20-76	Hearing cont'd		

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DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-21-76	Hearing cont'd & concluded Decision 2 served....Carter, J.				
5-22-76	Jury trial begun				
5-23-76	Trial cont'd				
5-25-76	Filed opinion # 44565- That deft's motion for release is denied So Ordered....Carter, J. M/N				
5-25-76	Filed deft's notice of appeal from the order dated 5-24-76 denying application for bail with memo and leave to appeal in forma pauperis is granted... <del>Carter</del> Carter, J. Mailed copies to Alberto Mejias & U.S. atty				
5-26-76	Trial cont'd				
5-27-76	Trial cont'd				
5-28-76	Trial cont'd				
5-31-76	Trial cont'd				
6-1-76	Trial cont'd				
6-2-76	Trial cont'd				
6-3-76	Filed transcript of record of proceedings, dated 3-30-76				
6-02-76	Filed order appointing Gustavo Hoffman as interpreter with a pay of 125.00 dollars per day.....CARTER, J.				
6-04-76	Filed affdvt. of LAWRENCE M. HERRMANN, in opposition to the motion of certain defts. to dismiss the indictment.				
6-04-76	Filed affdvt. of BANCROFT LITTLEFIELD, JR., in opposition to the motion of certain defts. to dismiss the indictment.				
6-04-76	Filed letter from Arthur C. DeGraff, M.D. to JUDGE CARTER in reference to the physical Examination of The deft...(To JUDGE)				
6-3-76	Trial cont'd				
6-4-76	Trial cont'd				
6-7-76	Trial cont'd				
6-8-76	Trial cont'd				
6-9-76	Trial cont'd				
6-10-76	Trial cont'd				
6-11-76	Trial cont'd				
6-11-76	Filed order that Julie Sayres, Dena J, Kohn, Manuel Ras, & Richard Schoen be appointed by the Courtdef't & their counsel in the trial & preparation of the captioned proceeding & it is further ordered that the interpreters shall be paid the usual & customary fees.....Carter, J. M/N				
6-11-76	Filed OPINION # 44564 Accordingly the motion to suppress the evidence seized on 9-3-74 from the persons of Mejias, Valenzuela, Salazar & Padilla & from the apartment Mejias occupied is denied...So ordered Carter, J. M/N				
6-8-76	Filed true copy of USCA order affirming the judgment of District Court Judgment ent 6-8-76.....Clerk M/N U.S.C.A. opinion attach . on 6-25-76				

-CONTINUED-

(Cont'd on Page #3)

Interval (per Section II)	Start Date End Date	Lv. Code	Total Days
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164

MORIAS, ALBERTO, REV. ET AL

JUDGE CARTER

DEFT 1

(Page #4)

DATE	PROCEEDINGS
6-21-76	Filed opinion & 4610 D. Ct's motion to dismiss the indictment on the grounds that they have been denied a speedy trial in violation of the 6th Amendment of the U.S. Constitution Rule 43(b) F.R. Crim P. & the interim plan & on the grounds of pre-indictment delay are hereby denied... So ordered Carter, J. 121
6-14-76	Trial cont'd
6-15-76	Trial cont'd
6-16-76	Trial cont'd
6-17-76	Trial cont'd
6-18-76	Trial cont'd
6-21-76	Trial cont'd
6-22-76	Trial cont'd
6-23-76	Trial cont'd
6-24-76	Trial cont'd
6-25-76	Trial cont'd
6-28-76	Trial cont'd
6-29-76	Trial cont'd
6-30-76	Trial cont'd & concluded Jury verdict Ct 1 Guilty Ct 2 Guilty Presentence report ordered Motions & sentences adj to July 30, 1976 at 2:30 A.M. DEft's remanded in lieu of bail previously fixed by Mag. ....Carter, J.
7-6-76	Filed transcript of record of proceedings, dated MAY 17, 18, 19 1976
7-6-76	Filed transcript of record of proceedings, dated MAY 20, 21 1976
7-6-76	Filed affidavit in support of motions for suppression of wiretap evidence & for suppression of physical evidence & for dismissal of indictment pursuant to speedy trial law
7-6-76	Filed Govt's memorandum of law in opposition of motions of DEft's to suppress the wiretap
7-7-76	Filed sealed envelope . To be made part of the record on appeal. To be opened by the Court of Appeals panel. So Ordered Carter, J. (FILED IN CHAMBERS VAULT)
7-19-76	Filed transcript of record of proceedings, dated May 31, June 1, 2, 3, 4, 7, 8, 9 - 1976
7-22-76	Filed Judgment & Commitment Order- The DEft is hereby committed to the custody of the Atty General for imprisonment for a period of FIFTEEN (15) YEARS on COUNT #1. 531 DAYS of the sentence imposed on Count #1 is suspended. FIVE HUNDERS AND THIRTY FOUR (534) DAYS on COUNT #2, to run CONSECUTIVELY with sentence imposed on COUNT #1. Pursuant to Rule 21, U.S.C., Section 311 the DEft. is placed on SPECIAL PAROLE for a period of THREE (3) YEARS to commence upon the expiration of confinement... CARTER, J.
7-30-76	Filed DEft's Notice of Appeal to the U.S.C.A., for the 2nd Circuit from the Judgment entered on July 30, 1976. (m/n's)
7-11-76	Filed transcript of record of proceedings, dated June 10, 11, 14, 15, 1976
7-11-76	Filed transcript of record of proceedings, dated June 17, 18, 21, 22, 23, 1976
7-11-76	Filed transcript of record of proceedings, dated June 24, 25, 27, 1976
7-14-76	Filed transcript of record of proceedings, dated June 24, 25, 26, 27, 28 1976
7-18-76	Filed transcript of record of proceedings, dated June 29, 30, July 30 1976
7-13-76	Filed transcript of record of proceedings, dated July 30, 1976
7-1-76	Filed transcript of record of proceedings, dated Feb 23 1976

(Cont'd on Page #5)





## Docket Entries A 5

STATES DISTRICT COURT - CRIMINAL DOCKET

Felony ☒ JUDGE/Assigned Trial  
 Offense ☐ MAGISTRATE 0857  
 Defendant ☐ 0208 1 Disposition  
 District Office

U.S. vs. NAVAS, MARIO, a/k/a Mario  
 Rodriguez, a/k/a Victor Jaramillo

defendant

Case Filed  
 Day Mo. Yr. | Docket No. | Def.  
 19 02 76 | 0164 | 02  
 No. 10  
 of  
 Defendants

CHARGES

U.S. CODE SECTION

21:846

21:812,841

OFFENSES

Consp. to viol. Fed. Narco. Laws.

Dist. &amp; possess. of cocaine II.

COUNTS

1

2&amp;3

MAGR. CASE NO. 76-270

☐ RAIL RELEASE  
☐ Personal Recog.

☐ Denied ☐ Unsecured Bond

☐ AMT ☐ Conditional Release

☐ Set (000) ☐ 10% Depos

☐ \$ 500 ☐ Surety Bor

☐ date ☐ Collateral

☐ Bail Not ☐ 3rd Party

☐ Made ☐ Custody

☐ Bail Status ☐ PSA

☐ Changed ☐ (See Docket)

COUNSELS

U.S. Attorney or Asst.

Michael Q. Carey  
 791-0062

Defense: U.S.A. ☐ Ret. ☐ Waived ☐ Self ☐ None ☐ Other ☐ P.D. ☐ C.D.

Michael Stokamer

100 Church Street

N.Y.C. 10007

ARREST

2-19-76

☐ U.S. Custody  
☐ Release on Above  
 Charges

☐ High Risk  
 Defn. &  
 Date Design'd

INDICTMENT

Information ☐

2-19-76

☐ Waived ☐
☐ Superseding  
☐ Indict/Info ☐
☐ Prosecution Deferred

ARRAIGNMENT

1st Plea

Final Plea

Trial Set For

☐ Not Guilty  
☐ Nolo  
☐ Guilty  
☐ Not Guilty  
☐ Nolo  
☐ Guilty

TRIAL

Voir Dire ☐Trial began ☐
☐ Trial ended ☐
☐ Trial ended ☐

SENTENCE

Disposition

☐ Convicted ☐ On All Charge

☐ Acquitted ☐ On Lesser\*

☐ Dismissed ☐ Offense(s)

☐ Nolo/Discontinued\*

☐ WOP; ☐ WP

☐ Nolo/Discontinued\*

Search

Warrant

Issued

Return

Summons

Issued

Served

Arrest Warrant

COMPLAINT

OFFENSE

(In Complaint)

DATE

INITIAL/No.

INITIAL

APPEARANCE

PRELIMINARY

EXAMINATION

OR REMOVAL

HEARING

☐ Waived ☐ Intervening

☐ Not Waived ☐ Indictment

Tape No.

INITIAL/No.

☐ Dismissed ☐ Exonerated

☐ Held for ☐ To Transfer

☐ District CJ ☐ District

☐ Held to Answer to U. S. District Court

☐ AT:

INITIAL/No.

Magistrate's Initials

OUTCOME

☐ Dismissed ☐ Exonerated

☐ Held for ☐ To Transfer

☐ District CJ ☐ District

☐ Held to Answer to U. S. District Court

☐ AT:

INITIAL/No.

\* Show last names and suffix numbers of other defendants on same indictment/information

Mejias, et al.

DATE

PROCEEDINGS

V. Excludable

(a) (b) (c) (d)

2-19-76

Filed indictment...B/W ordered...Tenney, J.

2-23-76

Deft. Court enters not guilty plea. Bail set by Magistrate  
 continued. Case assigned to Carter, J. for all purposes.  
 Tenney, J.

2-26-76

Filed the following papers rec'd from Magistrate Goettel:  
 Docket Entry Sheet - Disposition Sheet - Copy of Indictment.

5-4-76

Filed Govt's Notice of Readiness for trial on or after 5-4-76.

5-11-76

Filed deft's affid &amp; Notice of motion for an order to suppress ret 5-17-76

5-14-76

Filed memorandum in support of deft Mario Navas motion to dismiss evidence

5-17-76

Deft. (atty Michael Stokamer present) plead N/G, through interpreters  
 Richard Shoen, Julie Sayers, Manuel Ras, Bena Kohn

5-24-76

Jury trial begun Evangelista Navas is his true name indicted as

5-25-76

Mario Navas

trial cont'd

-OVER-

## Docket Entries A 6

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-25-76	fld. Opinion # 44655 - nat deft's motion for release is denied ....So Ordered Carter, J. M/N				
5-28-76	fld deft's notice of appeal from the order entered 5-24-76				
5-28-76	danying application for bail . with memo end. Leave to appeal in <del>dena</del> pauperia is granted....Carter, J.				
	Mailed copies to Mario Navas MCC 150 Park Row N.Y.C. 10007				
5-28-76	& U.S. Atty				
5-28-76	Trial cont'd				
5-28-76	Trial cont'd				
5-28-76	Trial cont'd				
5-28-76	Trial cont'd				
5-28-76	Trial cont'd				
5-28-76	Trial cont'd				
5-28-76	Trial cont'd				
6-3-76	Filed transcript of record of proceedings, dated 3-30-76				
06-02-76	Filed order appointing Gustavo Hoffman as interpreter with a pay of 125.00 dollars per day.....CARTER, J.				
6-10-76	File CJA form #21 copy 5 appointing Julie Sayres as interpreter for deft				
6-10-76	Filed CJA form #21 copy 2 authorizing payment for Julie Sayres as interpreter for deft dated 5-29-76...Carter, J.				
6-3-76	Trial cont'd				
6-4-76	Trial cont'd				
6-7-76	Trial cont'd				
6-8-76	Trial cont'd				
6-9-76	Trial cont'd				
6-10-76	Trial cont'd				
6-11-76	Trial cont'd				
6-11-76	Filed order that Julie Sayres, Dena J. Kohn, Manuel Ras & Richard Schoen be appointed by the Court & assigned to assist the deft & his counsel in the trial & preparation of the captioned proceeding, & it is further Ordered that the interpreters shall be paid the usual & customary fees.....Carter, J. M/N				
6-8-76	Filed true copy of USCA order affirming the Judgment of District Court Judgment ent 6-8-76.....Clerk M/N ( U.S.C.A. opinion attach on 6-25-76 )				
6-21-76	Filed OPINION # 44610 D ft's motion to dismiss the indictment on the grounds that they have been denied a speedy trial in violation of the 6th Amendment of the U.S. Constitution, Rule 43 (b) F.R. Crim P. & the Interim Plan, & on the grounds of pre-indictment delay are hereby denied...So ordered Carter, J. M/N				
6-14-76	Trial cont'd				
6-15-76	Trial cont'd				
6-16-76	Trial cont'd				
6-17-76	Trial cont'd				
6-18-76	Trial cont'd				
6-21-76	Trial cont'd				
6-22-76	Trial cont'd				
6-23-76	Trial cont'd				
6-24-76	Trial cont'd				

CONTINUED -

Interval Start Date Ltr. Total  
(per Section III) End Date Code Days



## Docket Entries A 7

CR 164 NAVAS, MARIO DEFT # 2

JUDGE CARTER

DATE	PROCEEDINGS
6-25-76	Trial cont'd
6-28-76	trial cont'd
6-29-76	Trial cont'd
6-30-76	Trial cont'd & concluded Jury verdict Cts 1, 2 & 3 Guilty Pre-sentence reports ordered & sentence adj to July 30, 1976 At 9:30 A.M. Deft's remanded in lieu of bail previously fixed by Mag. Carter, J.
7-6-76	Filed transcript of record of proceedings, dated MAY 17, 18, 19 1976
7-6-76	Filed transcript of record of proceedings, dated MAY 20, 21 1976
7-19-76	Filed transcript of record of proceedings, dated MAY 31, JUNE 1, 2, 3, 4, 7, 8, 9, 1976
7-25-76	Filed Order permitting Deft to marriage at M.C.C. SO ORDERED---CARTER, J.
7-30-76	Filed Judgment & Commitment Order: The Deft is hereby committed to the custody of the Atty General for imprisonment for a period of FIFTEEN (15) YEARS on COUNT #1. 503 Days of the sentence imposed on COUNT #1 is suspended. FIVE HUNDRED AND THREE (503) DAYS on COUNT #2, to run consecutively with sentence imposed on Count #1. FIFTEEN (15) YEARS on COUNT #3, to run concurrently with sentence on COUNTS #1 & #2. Pursuant to Title 21, U.S. Code, Section 841, the Deft is placed on a THREE (3) YEAR Special Parole to commence upon the expiration of confinement.... CARTER, J.
8-6-76	Filed Deft's Notice of Appeal to the U.S.C.A. for the 2nd Circuit from the judgment entered on July 30, 1976. (m/n's)
8-11-76	Filed transcript of record of proceedings, dated June 10, 11, 14, 15 1976
8-11-76	Filed transcript of record of proceedings, dated June 17, 18, 21, 22, 23 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 25, 28 1976
8-11-76	Filed transcript of record of proceedings, dated May 24, 25, 26, 27, 28 1976
8-11-76	Filed transcript of record of proceedings, dated June 29, 30, July 30, 1976
8-13-76	Filed transcript of record of proceedings, dated July 30, 1976
7-1-76	Filed transcript of record of proceedings, dated July 23, 1976
8-13-76	Filed GHA-21, Copy #2 & Copy #5 for Interpreter, Julie Sayres, dated 6-21-76 to 7-27-76. (3 Vouchers)
8-23-76	Filed Magistrate's Final Commitment dated 2-20-76.
8-19-76	Filed Notice that the record on appeal has been certified and transmitted to the U.S.C.A. for the 2nd Circuit on 8-19-76.

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## Docket Entries A 9

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-7-76	Filed CJA form #21 copy 2 authorizing payment for I. Howard Kay as Atty for deft dated 4-23-76...Carter, J.				
5-7-76	Filed CJA form #21 copy #5 appointing Julie Sayres as interpreter for deft				
5-7-76	Filed CJA form #21 copy #2 authorizing payment for Julie Sayres as interpreter for deft dated 4-6-76.....Carter, J.				
5-17-76	Deft (Atty Howard Jacobs present) plead N/G through interpreters Richard Schoen, Julie Sayres, Manuel Ras, Dena Kohn				
5-21-76	Jury trial begun				
5-25-76	Trial cont'd				
5-25-76	Old Opinion # 44405 — that deft's motion for release is denied ...So Ordered Carter, J. M/N				
5-25-76	Old deft's notice of appeal from the order dated 5-24-76 denying application for bail with memo and leave to appeal in forma pauperis is hereby denied.....Carter, J. Mailed copies to Estella Navas MCC 150 Park Row NYC 10007 & U.S. Atty				
5-26-76	Trial cont'd				
5-27-76	Trial cont'd				
5-28-76	Trial cont'd				
5-31-76	Trial cont'd				
6-1-76	Trial cont'd				
6-2-76	Trial cont'd				
6-3-76	Filed transcript of record of proceedings, dated 5-30-76				
06-02-76	Filed order appointing Gustavo Hoffman as interpreter with a pay of 125.00 dollars per day.....CARTER, J.				
06-04-76	Filed affdvt. of LAWRENCE M. HERRMANN, in opposition to the motion of certain defts. to dismiss the indictment.				
06-04-76	Filed affdvt. of BANCROFT LITTLEFIELD JR., in opposition to the motion of certain defts. to dismiss the indictment.				
6-10-76	Filed CJA form #21 copy #5 appointing Julie Sayres as interpreter for deft				
6-10-76	Filed CJA form #21 copy 2 authorizing payment for Julie Sayres as interpreter for deft dated 5-17-76...Carter, J.				
6-3-76	Trial cont'd				
6-4-76	Trial cont'd				
6-7-76	Trial cont'd				
6-8-76	Trial cont'd				
6-9-76	Trial cont'd				
6-10-76	Trial cont'd				
6-11-76	Trial cont'd				
6-11-76	Filed order that Julie Sayres, Dena J Kohn, Manuel Ras & Richard Schoen be appointed by the Court & assigned to assist the deft & his counsel in the trial & preparation of the above captioned proceeding & it is further Ordered that the interpreters shall be paid the usual customary fees....Carter, J. M/N				
6-8-76	Filed true copy of USCA order affirming the Judgment of District Court Judgment ent 6-8-76...Clerk M/N ( U.S.C.A. opinion attach. on 6-25-75)				

(a) (b) (c) (d)  
Interval Start Date Ltr Total

DATE	PROCEEDINGS
6-21-76	Filed OPINION # 11610 D ft's motion to dismiss the indictment on the grounds that they have been denied a speedy trial in violation of the 6th Amendment of the U.S. Constitution, Rule 48 (b) F.R. Crim P. & the Interim Plan on the grounds of pre-indictment delay are hereby denied. So Ordered Carter, J. M/V
6-14-76	Trial cont'd
6-15-76	" "
6-16-76	" "
6-17-76	" "
6-18-76	" "
6-21-76	" "
6-22-76	" "
6-23-76	" "
6-24-76	" "
6-25-76	" "
6-28-76	" "
6-29-76	" "
6-30-76	Trial cont'd & concluded Jury Verdict cts 1 & 3 Guilty Pre-sentence reports ordered. Motions & sentences adj to July 30, 1976 at 9:30 A.M. DEft's remanded in lieu of bail previously fixed by mag. Carter, J.
7-6-76	Filed transcript of record of proceedings, dated MAY 17, 18, 19, 1976
7-6-76	Filed transcript of record of proceedings, dated MAY 20, 21 1976
7-6-76	Filed Govt's memorandum of law on opposition to motions of deft's to suppress the wiretaps
7-6-76	Filed Govt's affid in opposition to the motion of deft Estella Navas to suppress the wiretap
7-19-76	Filed transcript of record of proceedings, dated May 31, June 1, 2, 3, 4, 7, 8, 9, 1976
7-26-76	Filed Order permitting Deft marriage at M.C.C. .... SO ORDERED... CARTER, J.
7-30-76	Filed Judgment & Commitment Order- The Deft is hereby committed to the custody of the Atty General for imprisonment for a period of FIFTEEN (5) YEARS on COUNT #1. 503 Days of the sentence on Count #1 is suspended. FIFTEEN (15) YEARS on COUNT #3, to run concurrently with sentence imposed on COUNT #1. Pursuant to Title 21, U.S. Code, Section 911, the Deft is placed on a THREE (3) YEAR Special Parole to commence upon the expiration of confinement..... CARTER, J.
8-1-76	Filed Deft's Notice of appeal to the U.S.C.A., for the 2nd Circuit from the Judgment entered on July 30, 1976. )(n/n's)
8-11-76	Filed transcript of record of proceedings, dated June 10, 11, 14, 15 1976
8-11-76	Filed transcript of record of proceedings, dated June 17, 18, 21, 22, 23, 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 25, 28 1976
8-11-76	Filed transcript of record of proceedings, dated May 24, 25, 26, 27, 28 1976
8-11-76	Filed transcript of record of proceedings, dated June 29, 30, July 30 1976
8-13-76	Filed transcript of record of proceedings, dated July 30, 1976
7-1-76	Filed transcript of record of proceedings, dated Feb 23, 1976
8-18-76	Filed CJA-21, Copy #2 and Copy #5 for Interpreter, Julia Gayens, dated 6-30-76 and 7-20-76. (2 Vouchers)





U.S. DISTRICT COURT - CRIMINAL DOCKET

Docket Entries A 12

Felony ☒ JUDGE/MAGISTRATE  
Assigned Trial  
0857  
0208 1  
District/Office

U.S. vs. CIFUENTES-ROJAS, HENRY a/k/a Botellon, a/k/a Botello

defendant

Case Filed  
Day No.  
19 02  
Yr.  
76  
Docket No.  
0164  
Def.  
04  
No. of 10\*  
Defendants

CHARGES

U.S. CODE SECTION  
21:846  
21:812,841

OFFENSES  
Consp. to viol. Fed. Narco. Laws.  
Dist. & possess. of cocaine II.

COUNTS  
1  
5

MAGR. CASE NO. 76-239

BAIL & RELEASE  
☐ Personal Recog.  
☐ Unsecured Bond  
AMT. Conditional Release  
Set (000)  
\$ 3,000  
10% Deposit  
Surety Bond  
Collateral  
Bail Not Made  
Bail Status Changed  
(See Docket)

U.S. Attorney or Asst.

Michael Q. Carey  
791-0068

Defense: ☒ CJA, ☐ Ret., ☐ Waived, ☐ Self, ☐ None, ☐ Other, ☐ L.P.D., ☐ L.C.D.  
Stewart Shaw  
600 Madison Ave, N.Y.C. 10022  
755-5645

ARREST

2-19-76

U.S. Custody  
Began on Above  
Charges

High Risk  
Defn. &  
Date Design'd

INDICTMENT

Information  
2-19-76

Waived

Superseding  
Indict/Info

ARRAIGNMENT

1st Plea

Final Plea

Trial Set For

Not Guilty  
Nolo  
Guilty  
Not Guilty  
Nolo  
Guilty

TRIAL

Voir Dire

Trial Began

Trial Ended

SENTENCE

Disposition

Convicted  
Acquitted  
Dismissed  
Nolled/Discontinued\*  
On All Charges  
On Lesser Offense(s)  
WOP; WPP

DATE

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING		Dismissed
Summons	Issued			Date Scheduled		Held for District GJ
	Served			Date Held		Held to Answer to U. S. District Court
Arrest Warrant				Waived		AT:
				Not Waived		Magistrate's Initials
COMPLAINT				Tape No.	INITIAL/No.	
OFFENSE (In Complaint)						

Show last names and suffix numbers of other defendants on same indictment/information

Meias, et al.

V. Excludable Delay

(a) (b) (c) (d)

2-19-76 Filed indictment. B/W ordered...Tenney, J.  
2-23-76 Deft. pleads not guilty. Bail set by Magistrate continued.  
Case assigned to Carter, J. for all purposes...Tenney, J.  
2-26-76 Filed the following papers rec'd from Magistrate Goettel:  
Docket Entry Sheet - cja-23 Financial Affdvt - Appointment of Counsel -  
Disposition Sheet - Copy of Indictment.  
4-1-76 Filed Deft's Notice of Motion, request for Bill of Particulars, Discovery & Inspection, Attys affdvt.  
4-12-76 Filed MEMO ENDORSEMENT on the above Deft's Notice of Motion filed 4-1-76.  
Motion DENIED. SO ORDERED....CARTER, J. (m/n 4-13-76)  
5-4-76 Fld Govt's Notice of Readiness for trial on or after 5-4-76.  
5-11-76 Filed govt's bill of particulars  
5-11-76 Filed govt's affidavit in opposition to motions for a bill of particulars & for discovery & inspection  
5-11-76 Filed govt's memorandum of law in opposition to deft's motions for a bill of particulars & for discovery & inspection

Cont'd on Page #2



# Docket Entries A 13

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-17-76	Filed Deft's affirm in support of motions of all Defts for suppression of evidence seized and for dismissal due to violation of Defts rights to a speedy trial.				
5-18-76	Filed deft's affirmation & notice of motion for an order suppressing any & all evidence seized in regard to the arrest of the above named deft; ret 5-19-76 in rm 318				
5-17-76	Deft ( atty Stuart Shaw present) Plead M/G through interpreters Richard Schoen, Julie Sayres, Manuel Ras, Dena Kohn				
5-19-76	Filed attorney's affirmation in support of speedy trial motion				
5-19-76	Filed brief in support of motions to suppress of Deft Rojas				
5-24-76	Trial begun Juan Jose Plata is his true name indicted as Henry Cifuentes Rojas				
5-25-76	Trial cont'd				
5-24-76	Wld opinion # 44465..hat deft's motion for release is denied ....So Ordered...Carter, J. M/N				
5-25-76	Wld notice of appeal from the order dated 5-24-76 denying application for bail with memo and.- Leave to appeal in forma pauperis is hereby granted....Carter, J. Mailed <del>copy</del> to Henry Cifuentes Rojas 150 Park Row N.Y.C. 10007 & U.S. Atty				
5-24-76	Filed memo and an motion filed 5-24-76 .. Motion denied So Ordered Carter, J. M/N				
5-26-76	Trial cont'd				
5-27-76	Trial cont'd				
5-28-76	Trial cont'd				
5-31-76	Trial cont'd				
6-1-76	Trial cont'd				
6-2-76	Trial cont'd				
6-3-76	Filed transcript of record of proceedings, dated 3-30-76				
05-02-76	Filed order appointing Gustavo Hoffman as interpreter with a pay of 125.00 dollars per day.....CARTER, J.				
6-3-76	Trial cont'd				
6-4-76	Trial cont'd				
6-7-76	Trial cont'd				
6-8-76	Trial cont'd				
6-9-76	Trial cont'd				
6-10-76	Trial cont'd				
6-11-76	Trial cont'd				
6-11-76	Filed order that Julie Sayres, Dena J. Kohn, Manuel Ras & Richard Schoen be appointed by the court & assigned to assist the deft & his counsel in the trial. & preparation of the above proceeding, & it is further Ordered that the interpreters shall be paid the usual & customary fees .....Carter, J. M/N				
6-8-76	Filed true copy of USCA order affirming the judgment of district court Judgment ent 6-8-76....Clerk M/N ( U.S.C.A. opinion attach on 6-25-76)				

CONTINUED

(a) (b) (c) (d)  
Interval Start Date Ltr. Total  
(per Section 11) End Date Code Days

CINQUENTES-ROJAS, HENRY

JUDGE CARTER

DEFT #1

DATE	PROCEEDINGS
5-21-76	Filed CJA form #21 appointing Richard S. Horn as interpreter for deft
5-21-76	Filed CJA form #21 copy 2 authorizing payment for Richard Schoen as interpreter for deft dated 6-3-76....Carter, J.
5-21-76	File OPINION # 44610 Def't's motion to dismiss the indictment on the grounds that they have been denied a speedy trial in violation of the 6th Amendment of the U.S. Constitution Rule 48 (b) F.R. Crim. P. & the Interim Plan & on the grounds of pre-indictment delay are hereby denied..So Ordered Carter, J. W/T
5-14-76	Trial cont'd
5-15-76	" "
5-16-76	" "
5-17-76	" "
5-18-76	" "
5-21-76	" "
5-22-76	" "
5-23-76	" "
5-24-76	" "
5-25-76	" "
5-26-76	" "
5-29-76	" "
5-30-76	Trial cont'd & concluded Jury Verdict Cts 1 & 5 Guilty Pre-sentence reports ordered, Motions & sentences adj to July 30, 1976 at 9:30 A.M. Def't's remanded in lieu of bail previously fixed by Mag. ...Carter, J.
7-6-76	Filed transcript of record of proceedings, dated MAY 17, 18, 19 1976
7-6-76	Filed transcript of record of proceedings, dated MAY 20, 21 1976
7-6-76	Filed Gov't's memorandum of law in opposition to motions of def't's to suppress the wiretaps
7-18-76	Filed transcript of record of proceedings, dated may 31; June 1, 2, 3, 4, 5, 6, 7, 8, 9, 1976
7-30-76	Filed Judgment & Commitment Order- The Def't is hereby committed to the custody of the Atty General for imprisonment for a period of FIFTEEN (15) YEARS on COUNT #1. 60 Days on the sentence imposed on COUNT #1 is suspended. FIFTEEN (15) YEARS on COUNT #5, to run concurrently with sentence imposed on COUNT #1. Pursuant to Title 21, U.S. Code, Section 841 the Def't is placed on Special Parole for THREE (3) YEARS, to commence upon the expiration of confinement.....CARTER, J.
7-30-76	Filed Def't's Notice of Appeal to the U.S. Ct. for the 1st Circuit from the Judgment entered on July 30, 1976. (m/n's)
8-11-76	Filed transcript of record of proceedings, dated June 16, 17, 18, 19, 20, 21, 22, 23 1976
8-11-76	Filed transcript of record of proceedings, dated June 17, 18, 21, 22, 23 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 25, 28 1976
8-11-76	Filed transcript of record of proceedings, dated may 24, 25, 26, 27, 28 1976
8-11-76	Filed transcript of record of proceedings, dated June 29, 30, July 30 1976
7-1-76	Filed transcript of record of proceedings, dated July 30, 1976
8-12-76	Filed CJA-21, Copy #2 and Copy #5, for Interpreter, Richard Schoen dated 6-11-76.
8-23-76	Filed Magistrate's Final Commitment dated 2-20-76.





U.S. DISTRICT COURT - CRIMINAL DOCKET

Docket Entries A 16

Case Filed

Day, Mo.

1902

Yr.

76

Docket No.

0164

Def.

05

Felony ☒ JUDGE/Assigned Trial  
 MAGISTRATE 0857  
 Offense ☐ 0208 1 Dis./Sentence  
 Defendant ☐ District Office

U.S. vs. RAMIREZ-RIVERA, JOSE a/k/a Hugo,  
 a/k/a Juan Ramirez  
 defendant

No. of  
 10  
 Defendants

MAGR. CASE NO. 76-239

CHARGES  
 21:846

Consp. to viol. Fed. Narco. Laws.

SALE & RELEASE  
☐ Personal Recog.  
☐ Unsecured Bond  
☐ Conditional Release  
 Set (1000)  
 \$ 100  
☐ 10% Deposit  
☐ Surety Bond  
☐ Collateral  
☐ 3rd Party  
☐ Custody  
☐ PSA  
 (See Docket)

U.S. Attorney or Asst.  
 Michael Q. Carey  
 791-0068

Defense: ☒ A ☐ B ☐ C ☐ D ☐ E ☐ F ☐ G ☐ H ☐ I ☐ J ☐ K ☐ L ☐ M ☐ N ☐ O ☐ P ☐ Q ☐ R ☐ S ☐ T ☐ U ☐ V ☐ W ☐ X ☐ Y ☐ Z  
 Abraham Solomon  
 85 Baxter St, N.Y.C. 10013  
 431-6542

ARREST	INDICTMENT	ARRAIGNMENT	TRIAL	SENTENCE
2-19-76 <input type="checkbox"/> Custody or <input type="checkbox"/> Release on Above Charges <input type="checkbox"/> Prosecution Deferred	2-19-76 <input type="checkbox"/> High Risk Defn. & Date Design'd <input type="checkbox"/> Waived <input type="checkbox"/> Superseding <input type="checkbox"/> Indict/Info	1st Plea <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty Final Plea	Trial Set For <input type="checkbox"/> Voir Dire <input type="checkbox"/> Trial Began <input type="checkbox"/> Trial Ended	Disposition <input type="checkbox"/> Convicted <input type="checkbox"/> Acquitted <input type="checkbox"/> Dismissed <input type="checkbox"/> Noted/Discontinued <input type="checkbox"/> On All Charge <input type="checkbox"/> On Lesser Offense(s) <input type="checkbox"/> WOP <input type="checkbox"/> WP

SEARCH WARRANT	ISSUED	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
Summons	Issued			PRELIMINARY EXAMINATION OR REMOVAL HEARING		<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District CJ <input type="checkbox"/> Held to Answer to U. S. District Court AT: Magistrate's Initials
Arrest Warrant	Served			<input type="checkbox"/> Waived <input type="checkbox"/> Not Waived <input type="checkbox"/> Intervening Indictment		
COMPLAINT				Tape No.	INITIAL/No.	
OFFENSE (In Complaint)						

* Show last names and suffix numbers of other defendants on same indictment/information		V. Excludable Delay			
DATE	PROCEEDINGS	(a)	(b)	(c)	(d)
	Meijas, et al.				
2-19-76	Filed indictment. B/W ordered...Tenney, J.				
2-23-76	Def't. pleads not guilty. Bail set by Magistrate continued. Case assigned to Carter, J. for all purposes...Tenney, J.				
2-25-76	Filed the following papers rec'd from Magistrate Goettel: Docket Entry Sheet - CJA-23 Financial Affidvt - Appointment of Counsel- Disposition Sheet - Copy of Indictment.				
3-25-76	Filed Notice of Appearances of Abraham Solomon.				
4-09-76	Filed CJA form #21 appointment of Manuel Ras 163-07 21ST ave Whitestone, N.Y. 11357 Carter, J. issued copies (interpreter)				
04-09-76	Filed CJA #21 approval for payment of fes for Manuel Ras Interpreter Carter, J. issued copies				
5-4-76	FLD Gov't's Notice of Readiness for trial on or after 5-4-76.				
5-7-76	Filed CJA form #21 copy #5 appointing Manuel Ras as interpreter for def't dated 4-12-76....Carter, J.				
5-7-76	Filed CJA form #21 copy 2 authorizing payment for Manuel Ras as interpreter for def't dated 4-12-76. Carter, J.				



## Docket Entries A 17

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-17-76	Deft ( Atty Abraham Solomon present) plead N/G through interpreter Richard Schoen, Filie 5 years, Manuel Ras, Dina Kohn				
5-21-76	JURY Trial begun Jose Ramirez <sup>NLS</sup> true name indicated as Jose Ramirez Rivera				
5-21-76	Trial cont'd				
5-24-76	Filed OPION 344465 ...that deft's motion for release is denied ...So Ordered....Carter, J. M/N				
5-25-76	Filed notice of appeal from order dated 5-24-76 denying application for bail with memo end...Leave to appeal in forma pauperis is hereby granted... Carter, J. Mailed copies to Jose Ramirez Rivera 150 Park Row NYC & U.S. Atty				
5-26-76	Trial cont'd				
5-27-76	Trial cont'd				
5-28-76	Trial cont'd				
5-31-76	Trial cont'd				
6-1-76	Trial cont'd				
6-2-76	Trial cont'd				
6-30-76	Filed transcript of record of proceedings, dated 3-30-76				
6-02-76	Filed order appointing Gustavo Hoffman as interpreter with a pay of 125.00 dollars per day.....CARTER, J.				
6-10-76	Filed CJA form #21 copy 5 appointing Jack M. Trabout as interpreter for deft.				
6-10-76	Filed CJA form #21 copy 2: authorizing payment for Jack M. Trabout as interpreter for deft. dated 5-28-76....Carter, J.				
6-3-76	Trial cont'd				
6-4-76	Trial cont'd				
6-7-76	Trial cont'd				
6-8-76	Trial cont'd				
6-9-76	Trial cont'd				
6-10-76	Trial cont'd				
6-11-76	Trial cont'd				
6-11-76	Filed order that Julie Sayres, Dina J. Kohn, Manuel Ras & Richard Schoen be appointed by the Court & assigned to assist the deft & his counsel in the trial & preparation of the captioned proceeding, & it is further ORDERED that the interpreters shall be paid the usual & customary fees....Carter, J. M/N				
6-8-76	Filed true copy of WSCA order affirming the Judgment of District Court Judgment ent 6-8-76...Clerk M/N (U.S.C.A. opinion attach on 6-25-76)				
6-21-76	Filed CJA form #21 copy #5 appointing Manuel Ras as interpreter for deft				
6-21-76	Filed CJA form #21 copy 2 authorizing payment for Manuel Ras as interpreter for deft dated 6-3-76...Carter, J.				
- CONTINUED -					
		(a)	(b)	(c)	(d)
		Interval	Start Date	Lv. Total	
		(per Section II)	End Date	Code Days	

DATE	PROCEEDINGS
6-21-76	Filed OPINION# 14610 Deft's motion to dismiss the indictment on the grounds that they have been denied a speedy trial in violation of the 6th Amendment of the U.S. Constitution, Rule 48 (b), F.R. Crim.P., & the Interim Plan, & on the grounds of pre-indictment delay are hereby denied. So Ordered Carter, J. W/N
6-14-76	Trial cont'd
6-15-76	" "
6-16-76	" "
6-17-76	" "
6-18-76	" "
6-21-76	" "
6-22-76	" "
6-23-76	" "
6-24-76	" "
6-25-76	" "
6-28-76	" "
6-29-76	" "
6-30-76	Trial cont'd & concluded Jury Verdict Gt. 1 Guilty Pre-sentence reports ordered Motions & sentences adj to July 30, 1976 at 9:30 A.M. DEft's remanded in lieu of bail previously fixed by mag...Carter, J.
7-6-76	Filed transcript of record of proceedings, dated MAY 17, 18, 19, 1976
7-6-76	Filed transcript of record of proceedings, dated MAY 20, 21, 1976
7-19-76	Filed transcript of record of proceedings dated MAY 31, JUNE 1, 2, 3, 4, 7, 8, 9, 1976
7-30-76	Filed Judgment & Commitment Order- The DEft is hereby committed to the custody of the Atty General for imprisonment for a period of FIFTEEN (15) YEARS on COUNT #1. 534 DAYS of the sentence imposed are suspended. Pursuant to Title 21, Section 841 of the U.S. Code, the DEft is placed on a THREE (3) YEAR Special Parole to commence upon the expiration of confinement.....CARTER, J.
7-30-76	Filed DEft's Notice of Appeal to the U.S.C.A. for the 2nd Circuit Judgment entered on July 30, 1976. (copies mailed).
8-11-76	Filed transcript of record of proceedings, dated June 10, 11, 14, 15 1976
8-11-76	Filed transcript of record of proceedings, dated June 17, 18, 21, 22, 23 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 25, 28 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 25, 26, 27, 28 1976
8-11-76	Filed transcript of record of proceedings, dated June 29, 30, July 30, 1976
8-11-76	Filed transcript of record of proceedings, dated July 30, 1976
8-11-76	Filed transcript of record of proceedings, dated Feb 23, 1976
8-15-76	Filed GJA-21, Copy #2 and Copy #5, for Interpreter, Manuel Ros dated 6-15-76 & 6-15-76.
8-15-76	Filed GJA-21, Copy #2 and Copy #5, for Interpreter, Jack H. Trebout dated 7-1-76.
8-19-76	Filed notice that the record on appeal has been certified and transmitted to the U.S.C.A. for the 2nd Circuit on 8-19-76.



FEDERAL DISTRICT COURT - CRIMINAL DOCKET

Docket Entries A 19

JUDGE/ MAGISTRATE Assigned Trial  
 0857  
 0208 I  
 District Office

U.S. vs. PADILLA MARTINEZ, MANUEL FRANCISCO  
 defendant

Case Filed Day, Mo. Yr. Docket No. Def.  
 19 02 76 0164 06  
 No. of 10 Defendants

CHARGES  
 21:846  
 U.S. Attorney or Asst.  
 Michael Q. Carey  
 791-0068

OFFENSES  
 Consp. to viol. Fed. Narco. Laws.  
 Defense: CJA, Ret, Waived, Self, None, Other, LPO, LCO  
 Legal Aid Society - Jack Lipson  
 15 Park Row, N.Y.C. 10038  
 374-1737

MAGR. CASE NO. 76-230  
 BAIL & RELEASE  
 Denied ☐ Personal Recog.  
 Denied ☐ Unsecured Bond  
 AMT ☐ Conditional Release  
 Set (1000) ☐ 10% Deposit  
 \$ 50. ☐ Surety Bond  
 date ☐ Collateral  
☐ Bail Not Made  
☐ Bail Status Changed (See Docket)  
☐ 3rd Party Custody  
☐ PSA

ARREST ☒ INDICTMENT ☒ ARRAIGNMENT ☒ TRIAL ☐ SENTENCE ☐

2-19-76 High Risk Defn. & Data Design'd  
 2-19-76 Information ☐ Waived ☐  
 Prosecution Deferred ☐ Superseding Indict/Info ☐

1st Plea ☐ Trial Set For ☐ Your Dir. ☐  
 Final Plea ☐ Not Guilty ☐ Trial Began ☐ J  
☐ Not Guilty ☐ N  
☐ Not Guilty ☐ Trial Ended ☐  
☐ Not Guilty ☐ Guilty

Disposition ☐ Convicted ☐ On All Charge  
☐ Acquitted ☐ On Lesser Offense(s)  
☐ Dismissed ☐ WCP; WP  
☐ Noted/Discontinued\*

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING	Date Scheduled Date Held	<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U. S. District Court
Summons	Issued			<input type="checkbox"/> Waived <input type="checkbox"/> Not Waived	<input type="checkbox"/> Intervening Indictment	<input type="checkbox"/> Exonerated <input type="checkbox"/> To Transferee District
Arrest Warrant	Served			Tape No.	INITIAL/No.	AT: Magistrate's Initials
COMPLAINT						
OFFENSE (In Complaint)						

* Show last names and suffix numbers of other defendants on same indictment/information		V. Excludable Delay		
Mejias, et al.		(a)	(b)	(c)
DATE	PROCEEDINGS			
2-19-76	Filed indictment. B/W ordered...Tenney, J.			
2-23-76	Deft: Court enters not guilty plea. Bail set by Magistrate continued. Case assigned to Carter, J. for all purposes.  Tenney, J.			
3-11-76	Filed Order directing the Warden of the Metropolitan Correction Center to permit a Polygraph Test be administered to deft....CARTER, J.			
3-26-76	Filed the following papers rec'd from Magistrate Goettel: Docket Entry Sheet - CJA-23 Financial Affdvt - Order Appointing Counsel - Disposition Sheet - Copy of Indictment.			
3-25-76	Filed Deft's affdvt & Notice of Motion for an order dismissing the indictment pursuant to Rule 48(b), F.R.Cr.P. Ret 4-2-76.			
4-2-76	Filed Deft's affdvt & Notice of Motion for an order suppressing certain evidence & directing the return of property, and as so further indicated. Ret: 4-9-76.			
4-2-76	Filed Deft's Memorandum of Law.			
5-4-76	Filed Govt's Notice of readiness for trial on or after 5-4-76.			
5-12-76	Filed Deft affid in support of his motion to suppress			

# Docket Entries A 20

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-8-76	Filed Govt's affidavit in opposition to motion to dismiss the indictment				
5-8-76	Filed Govt's memorandum of law in opposition to motions of deft's Manuel Francisco Padilla Martinez & Estelle Navas to dismiss the indictment				
5-17-76	Deft (atty Jack Lipson present) plead N/C through interpreters: Richard Schoen, Julie Sayres, Manuel Ras, Dena Kohn Suppression hearing begun & continued				
5-18-76	Hearing cont'd				
5-19-76	Hearing cont'd				
5-20-76	Hearing cont'd				
5-21-76	Hearing cont'd & concluded. Decision reserved....Carter, J.				
5-24-76	Jury trial begun Francisco Padilla is now true name indicted as Manuel Francisco Padilla Martinez				
5-25-76	Trial cont'd				
5-25-76	Filed OPION # 44465. That deft's motion for release is denied So Ordered Carter, J. M/N				
5-25-76	Filed deft's notice of appeal from the order entered 5-24-76 Denying application for bail with Memo end. Leave to appeal in Forma Pauperis is hereby granted....Carter, J. Mailed copies to Manuel Francisco Padilla Martinez 150 Park Row NYC 10007 & U.S. Atty				
5-26-76	Trial cont'd				
5-27-76	Trial cont'd				
5-28-76	Trial cont'd				
5-31-76	Trial cont'd				
6-1-76	Trial cont'd				
6-2-76	Trial cont'd				
6-3-76	Filed transcript of record of proceedings, dated 3-30-76				
06-02-76	Filed order appointing Gustavo Hoffman as interpreter with a pay of 125.00 dollars per day.....CARTER, J.				
06-04-76	Filed affidavit of LAWRENCE M. HERRMANN, in opposition to the motion of certain defts. to dismiss the indictment.				
06-04-76	Filed affidavit. BANCROFT LITTLEFIELD, JR., in opposition to the motion of certain defts. to dismiss the indictment.				
6-3-76	Trial cont'd				
6-4-76	Trial cont'd				
6-7-76	Trial cont'd				
6-8-76	Trial cont'd				
6-9-76	Trial cont'd				
6-10-76	Trial cont'd				
6-11-76	Trial cont'd				
6-11-76	Filed ORDER that Julie Sayres, Dena J. Kohn Manuel Ras & Richard Schoen be appointed by the Court to assist the deft & his Counsel in the trial & preparation of the above captioned proceeding, & it is further ORDERED that the interpreters shall be paid the usual & customary fees ....Carter, J. M/N				

-OVER-

(a) (b) (c) (d)  
Interval Start Date Ltr. Total



154 Padilla Martinez, Manuel Francisco et al Carter, J. page 3

DATE	PROCEEDINGS
6-11-76	Filed OPINION # 11564. Accordingly, the motion to suppress the evidence seized on 9-3-74 from the persons of Mejias, Valenzuela, Salazar & Padilla & from the apartment Mejias occupied is denied... So Ordered Carter, J. n/n
6-8-76	Filed true copy of USCJ order affirming the Judgment of District Court Judgment ent 6-8-76...Clerk M/USCA's opinion attach. on 6-25-76)
6-21-76	Filed CJA form #21 copy 5 appointing Dena J. Kohn as interpreter for deft
6-21-76	Filed CJA form #21 copy 2 authorizing payment for Dena J. Kohn as interpreter for deft dated 6-3-76.....Carter, J.
6-21-76	Filed OPINION # 11610 D ft's motion to dismiss the indictment on the grounds that they have been denied a speedy trial in violation of the 6th Amendment of the U.S. Constitution, Rule 48 (b) , F.R. Crim. P. & the Interim Plan, & on the grounds of pre-indictment delay are hereby denied....So Ordered Carter, J. M/N
6-14-76	Trial cont'd
6-15-76	" "
6-16-76	" "
6-17-76	" "
6-18-76	" "
6-21-76	" "
6-22-76	" "
6-23-76	" "
6-24-76	" "
6-25-76	" "
6-28-76	" "
6-29-76	" "
6-30-76	Trial cont'd & concluded Jul. Verdict Ct 1 Guilty Pre-sentence reports ordered. Motions & Sentences adj to July 30, 1976 at 9:30 A.M. Def't's remanded in lieu of bail previously fixed by mag.....Carter, J.
7-6-76	Filed transcript of record of proceedings, dated May 17-18-19, 1976
7-6-76	Filed transcript of record of proceedings, dated May 20, 21, 1976
7-6-76	Filed Gov't's memorandum of law in opposition to motions of def't's to suppress the transcripts
7-13-76	Filed transcript of record of proceedings, dated May 31, June 1, 2, 3, 4, 7, 8, 9, 1976
7-30-76	Filed Judgment & Commitment Order- The Def't is hereby committed to the custody of the Atty General for imprisonment for a period of FIFTEEN (15) YEARS on COUNT #1. 534 DAYS of the sentence imposed on COUNT #1 is suspended. Pursuant to Title 21, U.S. Code, Section 341, the Def't is placed on a THREE (3) YEARS Special Parole to commence upon the expiration of confinement.....CARTER, J.
7-30-76	Filed Def't's Notice of Appeal to the U.S.C.A. for the 2nd Circuit from the Judgment entered on July 30, 1976. (Mailed copies).

(Cont'd on Page #4)

DATE	PROCEEDINGS
8-11-76	Filed transcript of record of proceedings, dated June 10, 11, 14, 15 1976
8-11-76	Filed transcript of record of proceedings, dated June 17, 18, 21, 22, 23 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 25, 28 1976
8-11-76	Filed transcript of record of proceedings, dated May 24, 25, 26, 27, 28, 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 30, July 30, 1976
8-13-76	Filed transcript of record of proceedings, dated July 30, 1976
7-1-76	Filed transcript of record of proceedings, dated Feb 23, 1976
8-13-76	Filed GMA-21, Copy #2 and Copy #5 for Interpreter, Dana J. Kohn, dated 6-15-76 to 7-13-76. (3 Transfers)
8-23-76	Filed Magistrate's Final Commitment dated 2-20-76.
8-10-76	Filed notice that the record on appeal has been certified and transmitted to the U.S.C.A. for the 2nd Circuit on 8-19-76.

BEST COPY AVAILABLE



Docket Entries A 23

Felony ☒ JUDGE/ Assigned Trial  
 Misdemeanor ☐ MAGISTRATE 0857  
 Disposition ☐ 0208 1 Disposition  
 District Office

• U.S. vs. CADENA, FRANCISCO a/k/a Francisco Salazar

Case Filed		Yr.	Docket No.	Def.
Day	Mo.			
19	02	76	0164	07
No. of 10				
Pages				

U.S. CODE SECTION  
21:846

CHARGES

U.S. Attorney or Asst.

Michael Q. Carey  
731-0068

213

Offenses

Consp. to viol. Fed. Narco. Laws.

Defense ☒ CJA, ☐ Ret., ☐ Waived, ☐ Self, ☐ None, ☐ Other

Herbert Brown

66 Court Street, Bklyn, NY 11201

UL 5-5400

COPIES 1

MAGR. CASE NO. 76-239

☐ BAIL RELEASE

☐ Personal Recogn.

Denied ☐ Unsecured Bond

AMT. ☐ Conditional Release

Set (1000)

\$ 100.

☐ 10% Deposit

☐ Surety Bond

☐ date ☐ Collateral

☐ Bail Not Made

☐ 3rd Party

☐ Bail Status

☐ Custody

Changed ☐ PSA

(See Docket)

ARREST	INDICTMENT	ARRAIGNMENT	TRIAL	SENTENCE
2-19-76 U.S. Custody or Disposition on Above Charges	<input type="checkbox"/> Information 2019-76 <input type="checkbox"/> Waived <input type="checkbox"/> Superseding <input type="checkbox"/> Indict. Info	Trial Set For 1st Plea Final Plea	Voir Dire Trial Begun Trial Ended	Disposition <input type="checkbox"/> Convicted <input type="checkbox"/> Acquitted <input type="checkbox"/> Dismissed <input type="checkbox"/> Nolo/Discontinued

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
	Return			PRELIMINARY EXAMINATION OR REMOVAL HEARING { Date Scheduled _____ Date Held _____ <input type="checkbox"/> Waived <input type="checkbox"/> Not Waived <input type="checkbox"/> Intervening Indictment		
Summons	Issued					<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District GJ <input type="checkbox"/> Held to Answer to U. S. District Court BOND { <input type="checkbox"/> Exonerated <input type="checkbox"/> To Transfer District AT: _____ Magistrate's Initials _____
	Served					
Arrest Warrant						
COMPLAINT				Tape No.	INITIAL/No.	
OFFENSE (In Complaint)						

\* Show last names and suffix numbers of other defendants on same indictment/information

Mejias, et al.

## PROCEEDINGS

### V. Excludable Delay

(a)	(b)	(c)	(d)
-----	-----	-----	-----

2-19-76 Filed indictment. B/W ordered...Tenney, J.  
2-23-76 Deft. pleads not guilty. Bail set by Magistrate continued.  
Case assigned to Carter, J. for all purposes, ...Tenney, J.  
2-26-76 Filed the following papers rec'd from Magistrate Goettel:  
Docket Entry Sheet - CJA-23 Financial Affidvt - Appointment of Counsel-  
Disposition Sheet - Copy of Indictment.  
4-76 Fld Govt's Notice of Readiness for trial on or after 5-4-76.  
5-17-76 Deft (atty Herbert Alan Brown present) plead N/G through interpreters  
Richard Shoen, Julie Sayers, Manuel Ras, Dena Kohn  
Suppression hearing begun & continued  
5-18-76 Hearing cont'd  
5-19-76 Hearing cont'd  
5-20-76 Hearing cont'd  
5-21-76 Hearing cont;d & concluded. Decision R served... Carter, J.

-OVER-

# Docket Entries A 24

DATE	IV. PROCEEDINGS (continued)	V. EXCLUDABLE DELAY			
		(a)	(b)	(c)	(d)
5-24-76	Jury trial begun Francisco Salazar is his true name indicted as Francisco Cedena				
5-25-76	Trial cont'd				
5-24-76	Filed OPINION # 44465 That deft's motion for release is denied So Ordered...Carter, J. M/N				
5-25-76	FILED deft's notice of appeal from order dated 5-24-76 denying application for bail with memo enf. ...leave to appeal in forma pauperis is granted...Carter, J. Mailed copies to Francisco Salazar 150 Park Row NYC 10007 & U.S. Atty				
5-26-76	Trial cont'd				
5-27-76	Trial cont'd				
5-28-76	Trial cont'd				
5-31-76	Trial cont'd				
6-1-76	Trial cont'd				
6-2-76	Trial cont'd				
6-30-76	Filed transcript of record of proceedings, dated 3-30-76				
6-02-76	Filed order appointing Gustavo Hoffman as interpreter with a pay of 125.00 dollars per day.....CARTER, J.				
6-3-76	Trial cont'd				
6-4-76	Trial cont'd				
6-7-76	Trial cont'd				
6-8-76	Trial cont'd				
6-9-76	Trial cont'd				
6-10-76	Trial cont'd				
6-11-76	Trial cont'd				
6-11-76	Filed ORDER that Julie Sayres, Dena J. Kohn, Manuel Ras & Richard Schoen be appointed by the Court & assigned to assist thas deft & his counsel in the trial & preparation of the captioned proceeding & it is further ORDERED that the interpreters shall be paid the usual & customary fees.....Carter, J. M/N				
6-11-76	Filed OPINION # 44564 ,Accordingly, the motion to suppress the evidence seized on 9-3-74 from the persons of Mejias, Valenzuela, Salazar & Padilla & from the apartment Mejias occupied is denied. So Ordered Carter, J. M/N				
6-2-76	Filed true copy of USCA order affirming the judgment of District Court. Judgment ent 6-8-76....Clerk M/N (U.S.C.A. opinion attach. on 6-25-76)				
6-4-76	Filed OPINION # 44610 The deft's motion to dismiss the indictment on the grounds that they have been denied a speedy trial in violation of the 6th Amendmt of the U.S. Constitution ,Rule 48 (b), F.R. CrimP., & the Interim Plan, & on the grounds of the pre-indictment delay are hereby denied..So Ordered Carter, J. M/N				
-CONTINUED-					
		(a)	(b)	(c)	(d)
	Interval (per Section 11)	Start Date	End Date	Ltr. Code	Total Days



DATE	PROCEEDINGS
6-14-76	Trial cont'd
6-15-76	" "
6-16-76	" "
6-17-76	" "
6-18-76	" "
6-21-76	" "
6-22-76	" "
6-23-76	" "
6-24-76	" "
6-25-76	" "
6-28-76	" "
6-29-76	" "
6-30-76	Trial cont'd & concluded Jury Verdict Ct 1 Guilty Pre sentence reports ordered Motions & sentences adj to July 30, 1976 at 9:30 A.M. DEft's remanded in leau of bail previously fixed by Mag....Carter, J.
7-6-76	Filed transcript of record of proceedings, dated MAY 17-18-19, 1976
7-6-76	Filed transcript of record of proceedings, dated MAY 20, 21 1976
7-6-76	Filed deft's memorandum of law to suppress evidence
7-6-76	Filed Govt's memorandum of law in opposition to motions of deft's to suppress the wiretaps
7-19-76	Filed transcript of record of proceedings, dated MAY 31, JUNE 1, 2, 3, 4, 7, 8, 9, 1976
7-30-76	Filed Judgment & Commitment Order- The Deft is hereby committed to the custody of the Atty General for imprisonment for a period of FIFTEEN (15) YEARS on COUNT #1. Pursuant to Title 21, U.S. Code, Section 841, the Deft is placed on a THREE (3) YEAR Special Parole to commence upon the expiration of confinement....CARTER, J.
8-6-76	Filed Deft's Notice of Appeal to the U.S.C.A. for the 2nd Circuit from the Judgment of conviction entered against him on July 30, 1976. (Mailed copies).
8-11-76	Filed transcript of record of proceedings, dated June 10, 11, 14, 15 1976
8-11-76	Filed transcript of record of proceedings, dated June 17, 18, 21, 22, 23 1976
8-11-76	Filed transcript of record of proceedings, dated June 24, 25, 28 1976
8-11-76	Filed transcript of record of proceedings, dated May 24, 25, 26, 27, 28 1976
8-11-76	Filed transcript of record of proceedings, dated June 29, 30, July 30, 1976
8-13-76	Filed transcript of record of proceedings, dated July 30, 1976
8-13-76	Filed transcript of record of proceedings, dated July 23, 23, 1976
8-23-76	Filed Magistrate's Oral Commitment dated 2-20-76.
8-19-76	Filed notice that the record on appeal has been certified and transmitted to the U.S.C.A for the 2nd Circuit on 8-19-76.

MQC:bj  
n-1574UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

REV. ALBERTO MEJIAS, a/k/a Rev. Angel  
Ortiz, a/k/a Rev. Ronel Powem, a/k/a  
Francisco Ignacio Roldan Mejia;  
MARIO NAVAS, a/k/a Mario Rodriguez,  
a/k/a Victor Jaramillo, a/k/a Isidoro  
Colon;  
ESTELLA NAVAS, a/k/a Estella Rodriguez,  
a/k/a Maria Torres;  
HENRY CIFUENTES-ROJAS, a/k/a Botellon,  
a/k/a Botello, a/k/a Freddy Valdes,  
a/k/a Carlos Vega, a/k/a Jose Lopez  
Moralez;  
JOSE RAMIREZ-RIVERA, a/k/a Hugo, a/k/a  
Juan Ramirez;  
MANUEL FRANCISCO PADILLA MARTINEZ;  
FRANCISCO CADENA, a/k/a Francisco  
Salazar;  
ALBA LUZ VALENZUELA;  
JOSE ANTONIO LOPEZ, and  
JUAN GUILLERMO MESA,  
a/k/a Juangi, a/k/a Carrancho,

Defendants.

76 CRIM. 0164

## INDICTMENT

76 Cr.

## COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of January, 1972,  
and continuously thereafter up to and including October 4,  
1974 in the Southern District of New York and elsewhere,  
REV. ALBERTO MEJIAS, a/k/a Rev. Angel Ortiz, a/k/a Rev.  
Ronel Powem, a/k/a Francisco Ignacio Roldan Mejia;  
MARIO NAVAS, a/k/a Mario Rodriguez, a/k/a Victor Jaramillo,  
a/k/a Isidoro Colon;  
ESTELLA NAVAS, a/k/a Estella Rodriguez, a/k/a Maria Torres;  
HENRY CIFUENTES-ROJAS, a/k/a Botellon, a/k/a Botello, a/k/a  
Freddy Valdes, a/k/a Oscar Gomez, a/k/a Oscar Vega, a/k/a  
Carlos Vega, a/k/a Jose Lopez Moralez;  
JOSE RAMIREZ-RIVERA, a/k/a Hugo, a/k/a Juan Ramirez;  
MANUEL FRANCISCO PADILLA MARTINEZ;

FEB 20 1976



n-1574 FRANCISCO CADENA, a/k/a Francisco Salazar;  
ALBA LUZ VALENZUELA;  
JOSE ANTONIO LOPEZ, and  
JUAN GUILLERMO MESA, a/k/a Juangi, a/k/a Carrancho, the  
defendants, and  
Francisco Javier Velez-Morales, a/k/a Mono, a/k/a Pacho,  
a/k/a Elkin Diaz, a/k/a Francisco Adriano Arnedo-Sarmiento;  
Alberto Bravo;  
Carlos A. Bravo, a/k/a Bruno, a/k/a Ivan Berrios;  
Griselda Blanco;  
Bernardo Roldan;  
Jose Antonio Cabrera-Sarmiento, a/k/a Pepe, a/k/a El Tio;  
Edgar Restrepo-Botero, a/k/a Cacheton, a/k/a Cachetas, a/k/a  
El Sobrino, a/k/a Omar Hernandez, a/k/a Rafael Torres, a/k/a  
Arturo Velasquez;  
Arturo Gonzalez, a/k/a Abraham Gonzalez, a/k/a Abran, a/k/a  
Roberto Ortiz-Torres;  
Jorge Gonzalez, a/k/a Anibal Ramirez Roman;  
Ramiro Duque Estrada, a/k/a Libardo Gil, a/k/a El Zarco;  
Carmen Julia Restrepo-Mazo, a/k/a Carmen Gil, a/k/a Amparo  
Gomez;  
Alvaro Hernandez, a/k/a Balmores;  
Raul Diaz, a/k/a Alejandro Gallego Hernandez;  
Carmensa Gomez, a/k/a Miryam Ramona Venae Lopez;  
Adriana Gonzalez Restrepo, a/k/a Berta;  
Maria del Carmen Moreno;  
Daniel Torres;  
Hugo Diaz, a/k/a Victor Hugo Diaz;  
Esmerida Sanchez;  
Lilia Prada;  
Ruben Gutierrez;  
Jane Doe, a/k/a Lina Ramirez, a/k/a wife of defendant Jose  
Ramirez-Rivera, a/k/a Hugo, a/k/a Juan Ramirez;

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Renee Rondinell, a/k/a Rita Ramos;  
John Doe, a/k/a Carlos Julio;  
Walter Rodriguez, a/k/a Walter Velez;  
Maria Magdalena, a/k/a LaNegra, a/k/a Pilar Sanchez;  
Jorge Hernandez, a/k/a Jorge Gomez;  
John Doe, a/k/a Humberto;  
Oscar Catiri, a/k/a Saul Hernandez,  
Pedro Bello;  
Jose Salazar, a/k/a Guillermo Gonzalez;  
John Doe, a/k/a Palitraque and  
Cesar Julio Riveros-Rincon, who are named herein as co-  
conspirators but not as defendants, and others to the Grand  
Jury known and unknown, (hereinafter "unindicted co-conspirators"),  
unlawfully, intentionally and knowingly combined, conspired,  
confederated and agreed together and with each other to  
violate Sections 812, 841(a)(1), 841(b)(1)(A), 952(a), 955,  
959, 960(a) and 960(b)(1) of Title 21, United States Code.

MEANS

2. It was a part of said conspiracy that the defendants and unindicted co-conspirators unlawfully, intentionally and knowingly would manufacture and distribute large quantities of a Schedule II narcotic drug controlled substance, to wit, cocaine, in Colombia, South America and elsewhere to the Grand Jury unknown, intending and knowing that such cocaine would be unlawfully imported into the United States in violation of Sections 812, 959, 960(a)(3) and 960(b)(1) of Title 21, United States Code.

3. It was further a part of said conspiracy that the defendants and unindicted co-conspirators unlawfully, intentionally and knowingly would then ship large quantities of cocaine to the United States and import it from South America directly into the United States at Miami, Florida,



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Philadelphia, Pennsylvania, New York, New York and elsewhere and indirectly into the United States, through Spain, Germany, Canada and Mexico, at New York, New York, the United States Canadian border, and elsewhere in violation of Sections 812, 952(a) and 960(b)(1) of Title 21, United States Code.

4. It was further a part of said conspiracy that the defendants and unindicted co-conspirators, in order to ship cocaine into the United States, unlawfully, intentionally and knowingly would bring and possess said cocaine on board seagoing and other vessels, aircraft and vehicles of a carrier, arriving in the United States. Said cocaine was concealed in body belts and shoes worn by individual defendants and unindicted co-conspirators and was concealed behind the lining of their luggage, in the walls of large commercial shipping containers, in hollowed out soles and heels of shoes, in hollowed out clothes-hangers and in other containers in violation of Sections 812, 955, 960(a)(2) and 960(b)(1) of Title 21, United States Code.

5. It was further a part of said conspiracy that, after cocaine was imported into the United States, the defendants and unindicted co-conspirators unlawfully, intentionally and knowingly would transport the cocaine into the boroughs of Manhattan and Queens, in New York City and elsewhere and would there distribute and possess with the intent to distribute cocaine in violation of Sections 812, 841(a)(1) and 841 (b)(1) (A) of Title 21, United States Code.

6. It was further a part of said conspiracy that the defendants and unindicted co-conspirators unlawfully, intentionally and knowingly would distribute cocaine and would possess it with the intent to distribute it in New York City and elsewhere in large quantities, the exact amount

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thereof to the Grand Jury unknown, in violation of Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

7. It was further a part of said conspiracy that the defendants and unindicted co-conspirators unlawfully, intentionally and knowingly would distribute marijuana and would possess it with the intent to distribute it in New York City and elsewhere in large quantities, the exact amount thereof to the Grand Jury unknown, in violation of Sections 812, 841(a)(1) and 841(b)(1)(B) of Title 21, United States Code.

8. It was further a part of said conspiracy that the defendants and unindicted co-conspirators unlawfully, wilfully and knowingly would use and carry firearms to commit and during the commission of the felonies set forth in Counts One through Five of this indictment, in violation of Title 18, United States Code, Section 924(c).

9. It was further a part of said conspiracy that the defendants and unindicted co-conspirators wilfully and knowingly would use false documents and would use false identities in obtaining apartment leases, automobile rentals, driver's licenses, telephone listings and passports.

10. It was further a part of said conspiracy that the defendants and unindicted co-conspirators wilfully and knowingly would disguise their written and oral communications made in furtherance of this conspiracy.

11. It was further a part of said conspiracy that the defendants and unindicted co-conspirators would collect large sums of United States currency in payment for the cocaine they sold and convert it into money orders of \$500 and other denominations.

12. It was further a part of said conspiracy that the defendants and unindicted co-conspirators would ship money and money orders to Colombia, South America and



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elsewhere by mail, on the person of travelers and in other ways for the purchase of additional large quantities of cocaine which was to be imported into and distributed in the United States.

13. It was further a part of said conspiracy that the defendants and unindicted co-conspirators wilfully and knowingly would provide money for bail for members of the conspiracy who might be and were arrested.

OVERT ACTS

In pursuance of this conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York and elsewhere:

1. In or about August, 1972, co-conspirator Jose Antonio Cabrera-Sarmiento gave co-conspirator Carmen Caban \$16,000 for delivery to co-conspirators Alberto Bravo and Oscar Catiri in Bogota, Colombia, South America, as payment for a quantity of cocaine.

2. On or about September 15, 1972, co-conspirators Arturo Gonzalez and Cesar Julio Riveros-Rincon met with Detective Arthur Drucker, who was acting in an undercover capacity as a narcotics buyer, at the Imperial Bar, Roosevelt Avenue, Queens, New York and negotiated to sell Detective Drucker approximately 5 pounds of cocaine.

3. On or about September 21, 1972, at the Imperial Bar, Detective Drucker met co-conspirator Cesar Julio Riveros-Rincon who advised Detective Drucker that a shipment of 11 pounds of cocaine had been seized in Philadelphia and that the delivery of cocaine to Detective Drucker could not be made.

4. In or about June, 1973, co-conspirator John Doe, a/k/a Carlos Julio, and another received a payment of \$10,000 from co-conspirator Jose Antonio Cabrera-Sarmiento,

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for having smuggled approximately 11 pounds of cocaine into the United States from Colombia, South America.

5. On or about July 24, 1973, co-conspirator Edgar Restrepo-Botero delivered approximately 4.2 pounds of cocaine and three revolvers in a suitcase to co-conspirator Carmen Caban to hold for him and for co-conspirator Jose Antonio Cabrera-Sarmiento.

6. On or about August 1, 1973, co-conspirators Lilia Prada and Ruben Gutierrez sold more than 12 ounces of cocaine to Detective Luis Ramos, who was acting in an undercover capacity as a narcotics buyer, for \$8,400 at 118 West 109th Street, Manhattan, New York.

7. From on or about August 31, 1973 to on or about September 1, 1973, co-conspirators Lilia Prada and Ruben Gutierrez sold in excess of one pound of cocaine to Detective Luis Ramos, who was acting in an undercover capacity as a narcotics buyer, for \$10,000 at 243 West 107th Street, New York, New York.

8. On or about September 19, 1973, defendant REV. ALBERTO MEJIAS entered the United States at San Juan, Puerto Rico using Colombian passport No. G029291, issued in the name of Francisco Ignacio Roldan Mejia.

9. In or about November, 1973, defendants REV. ALBERTO MEJIAS and FRANCISCO CADENA had a meeting.

10. On or about January 3, 1974, co-conspirator Lilia Prada used the telephone at apartment 1W, 118 W. 109th Street, Manhattan, New York, number 850-3056, which telephone was subscribed in the name of Ruben Prada.

11. On or about January 4, 1974, co-conspirator Lilia Prada met with Detective Louis Vega, who was acting in an undercover capacity as a narcotics buyer, and negotiated



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for the sale of 6.6 pounds of cocaine.

12. On or about January 30, 1974, defendant MARIO NAVAS used the telephone at apartment 242, 80-15 41st Avenue, Queens, New York, number 426-5584, which telephone was subscribed in the name of Mario Rodriguez.

13. On or about January 31, 1974, at approximately 7:40 P.M., co-conspirator Lilia Prada possessed approximately 1/4 pound of cocaine inside apartment 4W, 243 W. 107th Street, Manhattan, New York.

14. On or about February 5, 1974, defendant MARIO NAVAS sold approximately 8 ounces of cocaine in the presence of Detective Luis Ramos at 118 West 109th Street, Manhattan, New York.

15. On or about February 26, 1974, at approximately 9:00 p.m., defendants Rev. Alberto Mejias and MARIO NAVAS entered the building located at 80-15 41st Avenue, Queens, New York.

16. On or about March 5, 1974, at 132-65 Pople Avenue, Queens, New York, defendant MARIO NAVAS and others to the Grand Jury unknown, were sifting a white powder at a table on which was placed a firearm.

17. On or about March 22, 1974, defendants JUAN GUILLERMO MESA and MARIO NAVAS had a conversation in front of the Green Derby Restaurant, 978 Second Avenue, Manhattan, New York.

18. On or about April 18, 1974, defendant REV. ALBERTO MEJIAS had a telephone installed in apartment 1B, 445 W. 48th Street, Manhattan, New York, number 582-7866, which telephone was subscribed in the name of Rev. Alberto Mejias.

19. On or about April 26, 1974, defendant REV. ALBERTO MEJIAS received United States passport number E863388, issued in the name of Angel Ortiz.

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20. On or about May 4, 1974, defendant MARIO NAVAS used the telephone at apartment 10F, 215 East 64th Street, Manhattan, New York, number 355-3193, which telephone was subscribed in the name of Marconi Roldan.

21. On or about May 8, 1974, between approximately 9:55 p.m. and 10:36 p.m., defendant HENRY CIFUENTES-ROJAS attempted to telephone Medellin, Colombia at the request of co-conspirator Francisco Javier Velez-Morales from the latter's apartment, number 10F, 215 East 64th Street, Manhattan, New York.

22. On or about May 9, 1974, co-conspirator Francisco Javier Velez-Morales and co-conspirator John Doe a/k/a Molina and others to the Grand Jury unknown, discussed the price of 2.2 pounds of cocaine to be delivered in Miami, Florida.

23. On or about May 13, 1974, defendant REV. ALBERTO MEJIA entered 215 East 64th Street, Manhattan, New York.

24. On or before June 6, 1974, defendant REV. ALBERTO MEJIAS brought to New York City from Miami, Florida approximately nine pounds of cocaine.

25. On or about June 6, 1974 defendant REV. ALBERTO MEJIAS wrote a letter in which he reported his receipt of cocaine to co-conspirator John Doe, a/k/a Carlos Julio.

26. On or about June 28, 1974, at approximately 10:29 p.m., defendant MARIO NAVAS used the telephone at apartment 5E, 61-25 98th Street, Queens, New York, number 699-0942, which telephone was subscribed in the name of Victor Jaramillo.

27. On or about June 28, 1974, at approximately 10:29 p.m., co-conspirator Francisco Javier Velez-Morales, and defendants MARIO NAVAS and ESTELLA NAVAS discussed the delivery of a false passport to co-conspirator Raul Diaz.



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28. On or about June 29, 1974, at approximately 10:50 a.m., co-conspirator Francisco Javier Velez-Moralez, discussed with co-conspirator Marconi Roldan the delivery by co-conspirator Bernardo Roldan of false passports to co-conspirator Raul Diaz.

29. On or about July 1, 1974, at approximately 6:03 p.m., defendant MARIO NAVAS discussed with co-conspirator CARMENSA GOMEZ the delivery of false passports to her from co-conspirator Bernardo Roldan in Medellin, Columbia.

30. On or about July 3, 1974, defendant MARIO NAVAS and co-conspirator RAUL DIAZ had a discussion regarding CARMENSA GOMEZ.

31. On or about Friday, July 5, 1974, at approximately 6:04 p.m., defendant REV. ALBERTO MEJIAS and co-conspirator Francisco Javier Velez-Moralez, discussed the distribution of cocaine and marijuana.

32. On or about July 6, 1974, at approximately 2:35 p.m., defendant JUAN GUILLERMO MESA told co-conspirator Jose Salazar that co-conspirator Daniel Torres would depart Munich, Germany on Lufthansa Airlines flight number 408 and would arrive in New York about noon on July 7, 1974.

33. On or about July 6, 1974, at approximately 5:18 p.m., defendant JUAN GUILLERMO MESA told defendant ESTELLA NAVAS that co-conspirator Daniel Torres would depart Munich, Germany on Lufthansa Airlines flight number 408, carrying cocaine, and would arrive in New York about noon, July 7, 1974.

34. On or about July 6, 1974, at approximately 7:45 p.m., co-conspirator Francisco Velez-Moralez carried a large cardboard box from the building located at 48-72 37th

n-1574 Street, Queens, New York and placed it in a white Chevrolet.

35. On or about July 6, 1974, at approximately 8:05 p.m., co-conspirator Francisco Javier Velez-Morales, carried a large cardboard box from the aforementioned white Chevrolet into the building located at 327 West 30th Street, Manhattan, New York.

36. On or about July 7, 1974, defendant JUAN GUILLERMO MESA told co-conspirator Daniel Torres to telephone Las Dos Jotas (The Two J's) upon his arrival in New York.

37. On or about July 7, 1974, at approximately 8:03 a.m., defendant MARIO NAVAS told defendant JUAN GUILLERMO MESA that co-conspirator Raul Diaz would be arriving in New York City on that date.

38. On or about July 7, 1974, co-conspirator Daniel Torres arrived at John F. Kennedy International Airport on Lufthansa Airlines flight number 408 carrying approximately six pounds of cocaine and telephoned Las Dos Jotas (The Two J's).

39. On or about July 7, 1974, at approximately 6:25 p.m., co-conspirator Daniel Torres, carrying approximately six pounds of cocaine, and defendant MARIO NAVAS were across the street from each other at the intersection of 53rd Street and Roosevelt Avenue, Queens, New York, in the vicinity of Las Dos Jotas (The Two J's).

40. On or about July 7, 1974, at approximately 7:26 p.m., defendant MARIO NAVAS telephoned Munich, Germany and informed co-conspirator John Doe, a/k/a Humberto that co-conspirator Daniel Torres was arrested and that co-conspirator John Doe, a/k/a Humberto and defendant JUAN GUILLERMO MESA should move to another hotel.

41. On or about July 8, 1974, at approximately 3:06 a.m., defendant MARIO NAVAS told defendant JUAN GUILLERMO MESA of the arrest of Daniel Torres and of the



1-1574 failure of co-conspirator Raul Diaz to arrive where he expected him.

42. On or about July 8, 1974, at approximately 7:54 p.m., co-conspirator Francisco Javier Velez-Morales, asked defendant MARIO NAVAS if co-conspirator Raul Diaz had arrived yet.

43. On or about July 10, 1974, at approximately eleven minutes of 1:00 a.m., co-conspirator Hugo Diaz and defendant MARIO NAVAS discussed the sale of a quantity of cocaine for \$12,500.00.

44. On or about July 10, 1974, at approximately 10:10 a.m., co-conspirator Hugo Diaz and defendant MARIO NAVAS agreed to meet at 60th Street and Second Avenue in Manhattan, New York at 12 noon that day.

45. On or about July 10, 1974, at approximately 12:00 noon, co-conspirator Hugo Diaz delivered a quantity of cocaine to defendants MARIO NAVAS and ESTELLA NAVAS in the vicinity of 60th Street and Second Avenue, Manhattan.

46. On or about July 10, 1974, shortly after noon, defendants MARIO NAVAS and ESTELLA NAVAS travelled from the vicinity of 60th Street and Second Avenue, Manhattan to 59-21 Calloway Street, Queens, New York.

47. On or about July 10, 1974, at approximately 3:50 p.m., co-conspirator Walter Rodriguez was in apartment 4G at 59-21 Calloway Street, Queens, New York.

48. On or about July 10, 1974, at approximately 5:58 p.m., co-conspirator Walter Rodriguez told defendant MARIO NAVAS that he saw people looking at him through binoculars.

49. On or about July 10, 1974, at approximately 6:40 p.m., defendants MARIO NAVAS and ESTELLA NAVAS were in the vicinity of 59-21 Calloway Street, Queens, New York.

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50. On or about July 10, 1974, at approximately 10:49 p.m., defendant MARIO NAVAS told co-conspirator Hugo Diaz that the quality of the cocaine was good.

51. On or about July 11, 1974, at approximately 10:32 a.m., co-conspirator Raul Diaz informed defendant MARIO NAVAS that his flight would depart at 2:45 p.m. and would arrive at 8:30 p.m.

52. On or about July 11, 1974, at approximately 7:18 p.m., co-conspirator Maria Magdalena ordered cocaine from defendant MARIO NAVAS.

53. On or about July 12, 1974, at approximately 12:19 p.m., defendants MARIO NAVAS and JUAN GUILLERMO MESA discussed the failure of co-conspirators Raul Diaz and Carmensa Gomez to arrive as expected.

54. On or about July 12, 1974, at approximately 10:43 p.m., co-conspirator Adriana Gonzalez Restrepo told co-conspirator Jorge Hernandez to make arrangements for a Puerto Rican to travel to Toronto, Canada to receive a delivery of cocaine.

55. On or about July 13, 1974, at approximately 12:38 p.m., co-conspirator Jorge Hernandez told defendant ESTELLA NAVAS that he needed a Puerto Rican to meet co-conspirator Adriana Gonzalez Restrepo in Toronto to receive a delivery of cocaine.

56. On or about July 13, 1974, co-conspirators Adriana Gonzalez-Restrepo and Maria Del Carmen Moreno arrived at the Toronto International Airport, Toronto, Canada, aboard Air Canada flight number 993 from Kingston, Jamaica.

57. On or about July 13, 1974, at approximately 2:50 p.m., defendant MARIO NAVAS told co-conspirator Francisco Javier Velez-Morales that co-conspirators Raul Diaz and Carmensa Gomez had been arrested.



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58. On or about July 14, 1974, at approximately 3:25 p.m., co-conspirator Jorge Hernandez told defendant ESTELLA NAVAS to advise co-conspirator Adriana Gonzalez-Restrepo that he was in Room 210 at the Ontario Motel in Buffalo, New York.

59. On or about July 14, 1974, co-conspirator Maria Del Carmen Moreno possessed approximately 2.2 pounds of cocaine concealed in six wooden coat hangers.

60. On or about July 15, 1974, co-conspirators Jorge Hernandez, Jose Cruz and Jose Pirzero met in Room 210 of the Ontario Motel in Buffalo, New York.

61. On or about August 17, 1974, defendants MARIO NAVAS and ESTELLA NAVAS used the telephone at apartment B-204, 61-20 Grand Central Parkway, Queens, New York, number 699-5429, which telephone was subscribed in the name of Isidoro Colon.

62. On or about August 27, 1974, defendant FRANCISCO CADENA opened an account at the East New York Savings Bank, Manhattan, New York.

63. On or about August 27, 1974, defendant FRANCISCO CADENA told an employee of the East New York Savings Bank, Manhattan, New York his address was apartment 1B, 445 W. 48th Street, Manhattan, New York.

64. On or about August 29, 1974, at approximately 12:47 p.m., defendant MARIO NAVAS telephoned defendant HENRY CIFUENTES-ROJAS at apartment 6A, 327 W. 30th Street, Manhattan, New York.

65. On or about August 29, 1974, at approximately 12:47 p.m., defendant HENRY CIFUENTES-ROJAS told defendant MARIO NAVAS that the price for 2.2 pounds of cocaine was \$25,000.

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66. On or about August 30, 1974, at approximately 1:50 a.m., defendants MARIO NAVAS and ESTRELLA NAVAS and co-conspirator Francisco Javier Velez-Morales had a meeting in apartment 6A, 327 W. 30th Street, Manhattan, New York.

67. On or about Sunday, September 1, 1974, at approximately 5:59 p.m. defendant JOSE RAMIREZ-RIVERA, told co-conspirator Francisco Javier Velez-Morales that he would deliver money orders to him on Tuesday, September 3, 1974.

68. On or about September 3, 1974, at approximately 9:02 a.m. co-conspirator Francisco Javier Velez-Morales, telephoned 564-9297, which telephone was subscribed in the name of Freddy Valdez, apartment 6A, 327 W. 30th Street, Manhattan, New York.

69. On or about September 3, 1974, at approximately 10:35 a.m., co-conspirator Francisco Javier Velez-Morales, telephoned defendant REV. ALBERTO MEJIAS and asked him if he had a quantity of cocaine for defendant MARIO NAVAS.

70. On or about September 3, 1974, at approximately 11:52 a.m., defendant MARIO NAVAS told defendant REV. ALBERTO MEJIA that he was going to the latter's apartment at 445 W. 48th Street, Manhattan, New York.

71. On or about September 3, 1974, on or before approximately 12:35 p.m., defendants HENRY CIFUENTES-ROJAS and JOSE RAMIREZ-RIVERA discussed the latter meeting with co-conspirator Francisco Javier Velez-Morales.

72. On or about September 3, 1974, at approximately 2:05 p.m., defendant MARIO NAVAS, carrying a red plastic bag with a white handle, and defendant REV. ALBERTO MEJIAS entered 445 W. 48th Street, Manhattan, New York.



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73. On or about Tuesday, September 3, 1974, at approximately 3:07 p.m., defendant JOSE RAMIREZ-RIVERA arranged to meet co-conspirator Francisco Javier Velez-Morales at a gas station in Queens; New York.

74. On or about Tuesday, September 3, 1974, at approximately 3:15 p.m., co-conspirator Francisco Javier Velez-Morales met defendant JOSE RAMIREZ-RIVERA who was carrying \$10,000 in personal money orders, and co-conspirator John Doe, a/k/a Palitraque, at Colonial Road and 112th Street, Queens, New York.

75. On or about September 3, 1974, at approximately 3:30 p.m., defendants HENRY CIFUENTES-ROJAS and JOSE ANTONIO LOPEZ possessed approximately 3 3/4 pounds of cocaine in apartment 6A, 327 W. 30th Street, Manhattan, New York.

76. On or about September 3, 1974, at approximately 3:30 p.m., defendants HENRY CIFEUNTES-ROJAS and JOSE ANTONIO LOPEZ and co-conspirator Pedro Bello had a meeting in apartment 6A, 327 W. 30th Street, Manhattan, New York.

77. On or about September 3, 1974, at approximately 4:30 p.m., defendant MARIO NAVAS discussed selling 2.2 pounds of pure cocaine for \$27,500 and selling approximately 1/4 pound of impure cocaine for \$3,000.

78. On or about September 3, 1974, at approximately 5:00 p.m., defendant MANUEL FRANCISCO PADILLA MARTINEZ possessed records listing proceeds from the sale of cocaine.

79. On or about September 3, 1974, at approximately 5:00 p.m., defendants REV. ALBERTO MEJIAS, MANUEL FRANCISCO PADILLA MARTINEZ, FRANCISCO CADENA and ALBA LUZ VALENZUELA had a meeting in apartment 1B, 445 West 48th Street, Manhattan, New York.

80. On or about September 3, 1974, at approximately 5:10 p.m., defendants MANUEL FRANCISCO PADILLA MARTINEZ, FRANCISCO CADENA and LISA LUZ VALENZUELA were counting money in apartment 1B, 445 W. 48th Street, Manhattan, New York.

81. On or about September 3, 1974, defendant REV. ALBERTO MEJIAS had in his possession approximately 12 bags containing a residue of cocaine.

82. On or about September 3, 1974, at approximately 9:34 p.m., co-conspirator Jane Doe, a/k/a Lina Ramirez, a/k/a wife of defendant Jose Ramirez-Rivera, a/k/a Hugo, a/k/a Juan Ramirez, asked co-conspirator Jane Doe, a/k/a Gael if co-conspirator Francisco Javier Velez-Morales was there.

83. On or about September 4, 1974, co-conspirator Jane Doe, a/k/a Lina Ramirez, a/k/a wife of defendant Jose Ramirez-Rivera, a/k/a Hugo, a/k/a Juan Ramirez sent a message to defendant HENRY CIFUENTES-ROJAS to arrange to remove cocaine he stored at her house.

84. On or about September 5, 1974, co-conspirator Arturo Gonzalez told defendant MARIO NAVAS that he had hired an attorney for co-conspirator Francisco Javier Velez-Morales.

85. On or about September 5, 1974, at approximately 2:52 p.m., defendant MARIO NAVAS offered to provide money to be used for bail for co-conspirator Francisco Javier Velez-Morales.

86. On or about September 17, 1974, co-conspirator Arturo Gonzalez possessed approximately \$26,000 in cash.

87. On or about September 30, 1974, co-conspirators Ramiro Duque Estrada and Carmen Julia Restrepo-Mazo possessed approximately 1 1/5 pounds of cocaine, approximately 19 pounds of marijuana, approximately \$72,500 in money order receipts and approximately \$70,000 in United States currency at apartment 3D, 580 Amsterdam Avenue, Manhattan, New York.



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88. On or about October 4, 1974, at approximately 10:00 p.m., defendants MARIO NAVAS and ESTELLA NAVAS possessed approximately 3/4 pound of cocaine and approximately 10 pounds of marijuana in apartment B-204, 61-20 Grand Central Parkway, Queens, New York.

89. On or about October 4, 1974, at approximately 10:30 p.m., co-conspirator Walter Rodriguez possessed a quantity of non-narcotic white powder, approximately 359 pounds of marijuana, a hydraulic press, a 9MM semi-automatic pistol and a semi-automatic rifle in apartment 4G, 59-21 Calloway Street, Queens, New York.

(Title 21, United States Code, Sections 846 and 963.)

COUNT TWO

The Grand Jury further charges:

On or about the 5th day of February, 1974, in the Southern District of New York, MARIO NAVAS, a/k/a Mario Rodriguez, a/k/a Victor Jaramillo, a/k/a Isidoro Colon, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 8 3/4 ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT THREE

The Grand Jury further charges:

On or about the 10th day of July, 1974 in the Southern District of New York, MARIO NAVAS, a/k/a Mario Rodriguez, a/k/a Victor Jaramillo, a/k/a Isidoro Colon and ESTELLA NAVAS, a/k/a Estella Rodriguez, a/k/a Maria Torres, the defendants, unlawfully, wilfully and knowingly did distribute and possess with

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intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one (1) pound of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

COUNT FOUR

The Grand Jury further charges:

On or about the 3rd day of September, 1974, in the Southern District of New York, REV. ALBERTO MEJIAS, a/k/a Rev. Angel Ortiz, a/k/a Rev. Ronald Powem, a/k/a Francisco Ignacio Roldan Mejia, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 1 3/4 ounces of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT FIVE

The Grand Jury further charges:

On or about the 3rd day of September, 1974, in the Southern District of New York, HENRY CIFUENTES-ROJAS, a/k/a Botellon, a/k/a Botello, a/k/a Freddy Valdes, a/k/a Oscar Gomez, a/k/a Oscar Vega, a/k/a Carlos Vega, a/k/a Jose Lopez Morales and Jose Antonio Lopez, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 3 3/4 pounds of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A); Title 18, United States Code, Section 2.)

Vincent A. Herman  
Foreman

Thomas J. Cahill  
THOMAS J. CAHILL  
United States Attorney



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CHARGE OF THE COURT

We now come to that part of the case where the evidence is in, the lawyers have presented their arguments, and you are about to exercise your final role which is to pass upon and to decide the fact issues that are in the case. You are the sole and exclusive judge of the facts. You pass upon the weight of the evidence. You determine the credibility of witnesses. You resolve such conflicts as there may be in the evidence and you draw such reasonable inferences as may be warranted by the testimony or exhibits in the case.

My function at this point is to instruct you as to the law that is applicable to the case. It is your duty to accept the law as I state it to you in these instructions, and to apply it to the facts as you find them. The logical result of that application is your verdict in the case.

I have permitted each of you to take notes during the course of this trial. I expect you to use whatever notes you took merely as memory aids. They should not be allowed to take precedence over your independent memory of the facts. Moreover, merely because a fellow juror may have memorialized in his or her notes something contrary to your recollection,

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1 is not to be taken by you to mean that your memory  
2 is in error. It is your own recollection of the facts,  
3 and yours alone, which is controlling.  
4

5 With respect to any fact matter, it is your  
6 recollection and yours alone that governs. Anything  
7 that counsel, either for the government or the defense may  
8 have said with respect to matters in evidence during  
9 the trial, in a question, in colloquy with the Court,  
10 in argument, or in summation, is not to be substituted  
11 for your own recollection of the evidence.

12 So, too, anything the Court may have said  
13 during the trial, or may refer to during the course of  
14 these instructions, as to any factual matter in evidence,  
15 is not to be taken in lieu of your own recollection.  
16 The case must be **decided** by you upon the sworn  
17 testimony of the witnesses, and such exhibits as were  
18 received in evidence and any stipulation entered  
19 into among counsel.

20 At times throughout this trial I have been  
21 called upon to make rulings upon various matters of law,  
22 as for example when a question put to a witness was  
23 objected to, or after a question was answered a motion  
24 was made to strike the answer, or the offer of a document  
25 was objected to.



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2 I have sustained some objections and I have  
3 overruled others. I have received and rejected exhibits  
4 that were offered. It is essential in the performance  
5 of your duty that when anything was ordered stricken  
6 from the record or rejected you put it out of your mind  
7 and disregard it entirely.

8 Similarly, if a question was asked and an  
9 object to that question was sustained and no answer  
10 was given, the question itself should play no part in  
11 your consideration of the case. Please do not concern  
12 yourselves at all with my reasons for any of these  
13 rulings. These are purely legal matters, and of no  
14 concern to you.

15 Conferences at the bench were conducted at  
16 the request of the attorneys. As I have advised you,  
17 these conferences were solely on questions of law and  
18 are of no concern to you. You are not to draw any  
19 inferences against either side because of requests for such  
20 conferences or because such requests were denied.  
21  
22  
23  
24  
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3 pm                    In deciding this case you will be called  
upon to consider both direct evidence and circumstantial  
evidence. I would like to explain the difference be-  
tween these two types of evidence.

Direct evidence is where a witness or a  
participant testified as to what he saw, heard or observed,  
what he knows of his own knowledge, something which comes  
to him by virtue of his senses. A document can also  
contain direct evidence. In addition, you have before you  
what are called stipulations. Stipulations are simply  
agreements between the parties that rather than have  
certain witnesses come in and testify directly, the  
parties agree, or stipulate, as to what a witness would  
testify to, without conceding the truth thereof. Thus,  
for example, you must take note that the government  
and defense counsel have stipulated or agreed that if  
certain chemists were called as witnesses, they would  
testify that they had analyzed each of the alleged cocaine  
or marijuana exhibits in evidence and that such exhibits  
in evidence were cocaine or marijuana. These agreements  
are the equivalent for your purposes of live testimony  
to the same effect by the respective chemists.

Circumstantial evidence is evidence of facts  
and circumstances from which one may infer connected



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2 facts which reasonabley flow in the common experience of  
3 mankind. Stated somewhat differently, circumstantial  
4 evidence is evidence of facts from which other facts  
5 that are material in the lawsuit may be found by a process  
6 of inference.

7 Let me give you an example that I believe  
8 has nothing to do with the facts in this case.

9 Suppose you had a material issue in some case  
10 as to whether John Doe was drinking alcoholic beverages  
11 on a particular night. A witness might take the stand  
12 and testify that he had given whiskey to John Doe and  
13 had seen him drinking it. That would be what is termed  
14 direct evidence. If you believed the witness and  
15 thought he was able to report accurately, you could find from  
16 that direct evidence that John Doe had been drinking on  
17 the night in question.

18 On the other hand, you might have a witness  
19 testify that he had seen John Doe enter a tavern and  
20 then had seen him leave the tavern a few hours later,  
21 walking and talking in ways that suggested he was drunk.  
22 If you believed that witness and thought he was an ac-  
23 curate reporter you could find on the basis of that  
24 testimony that John Doe had been drinking on the night  
25 in question. You would be using circumstantial evidence

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2 to find the existence of a material fact in that  
3 hypothetical case.

4 Let me tell you that for your purposes that  
5 there is no general rule of law and no general rule of good  
6 sense that places either of these two types of evidence,  
7 direct or circumstantial, in a general way on any higher  
8 or lower or different footing one from the other. With  
9 respect to any evidence admitted into a trial record,  
10 whether it is direct or circumstantial, it is entitled to  
11 such weight, and you are permitted to draw such reasonable  
12 inferences as your good judgment dictates in a particular  
13 case.

14 The weight and effect of a particular item  
15 or category of evidence depend not on whether it is to be  
16 categorized as direct or circumstantial but on the concrete  
17 significance of that particular piece of evidence in its  
18 trial setting and upon its intrinsic credibility and  
19 persuasive power in the light of your observations of the  
20 witness, your own general experience of things and your  
21 reasonable analysis of the whole record.

22 There are times when different inferences  
23 may be drawn from facts, whether they are proved by  
24 direct or circumstantial evidence. The government  
25 asks you to draw one set of inferences, while the defendants



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2 ask you to draw another. It is for you to decide, and  
3 for you alone, what inferences you will draw.

4 It is your function to determine the truth or  
5 falsity of the testimony of each witness. No inference  
6 as to the credibility of any witness should be drawn  
7 from the fact that upon occasion I have asked questions  
8 of a witness. My questions were only intended for  
9 clarification or to expedite matters. They were not in-  
10 tended to suggest any opinion as to the credibility of a  
11 witness who appeared before you.

12 Now how do you determine the truth and how do  
13 you appraise the credibility of the witness? Well, simply  
14 put, as I think I told you when you were sworn in, you  
15 use your own plain, every day common sense.

16 The degree of credit to be given a witness  
17 should be determined by his or her demeanor here, his or  
18 her relationship to the controversy and to the parties,  
19 his or her bias or impartiality, the reasonableness  
20 of his statements, the strength or weakness of his recol-  
21 lection viewed in light of all other testimony and the  
22 attendant circumstances in the case.

23 You observed the witnesses. You heard their  
24 testimony. How did they strike you? Did their answers  
25 seem frank, open, truthful, candid? Or were they

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2 equivocal, deliberately confusing, or evasive? Or were  
3 they somewhere in between? How did each witness impress  
4 you? So you take each one, and on the basis of your  
5 common sense and your everyday experience you determine  
6 whether or not you believe the witnesses and to what  
7 extent you believe them.

8 In passing upon the credibility of a witness,  
9 you may also take into account whether there were material  
10 inconsistencies or contradictions within his or her  
11 own testimony; whether a witness changed his or her  
12 testimony; the extent to which he or she has been cor-  
13 roborated or contradicted by other credible evidence.

14 The testimony of a witness may fail to conform  
15 to the facts as they occurred because the witness is  
16 intentionally telling a falsehood, or because the witness  
17 did not accurately observe the events about which he  
18 testified, or because his recollection of what happened  
19 is at fault, or even because he has not expressed him-  
20 self clearly in giving his testimony.

21 You are entitled to consider the possibility  
22 that where a witness is called upon to testify some  
23 time after the event, inconsistencies may result from  
24 an innocent mistake or lapse of memory rather than from  
25 a deliberate attempt to falsify or change facts. It



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2 is not unusual for a witness in a proceeding long after  
3 the event to utter inconsistencies at some stage along  
4 the line.

5 If in your consideration of the evidence there  
6 appear to be differing versions of the facts, you will  
7 have to determine whether the apparent discrepancy in  
8 the evidence results from an understandable error which  
9 can be reconciled so that the two stories fall together  
10 rationally. If, however, you find this not to be appro-  
11 priate or possible, you will then have to decide which  
12 version you will accept. You may accept so much of  
13 the testimony of a witness as you may deem true, and  
14 disregard the rest. You are at liberty, if you deem  
15 it appropriate, to disbelieve testimony in whole or in  
16 part, even though it is not otherwise contradicted or  
17 impeached.

18 You may consider whether the witness is a dis-  
19 interested one or whether he is fostering some interest  
20 of his own in giving testimony.

21 An interested witness is not necessarily  
22 unworthy of belief. The interest of a witness in the  
23 outcome of this lawsuit is a factor, however, which you may  
24 consider in determining the weight and credibility to  
25 be given to that witness' testimony. It should

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2 be remembered that the testimony of agents of the  
3 government are not to be entitled to any greater or lesser  
4 weight than any witness who is not an agent of the govern-  
5 ment.

6 If you find that any witness has wilfully  
7 testified falsely to any material fact, you may disregard  
8 all his testimony or accept such part of it as you believe  
9 worthy of belief as it appears to your reason or judg-  
10 ment.

11 A witness may be discredited by contradictory  
12 evidence, or by evidence that at other times the witness  
13 has made statements which are inconsistent with his or her  
14 testimony here. If you believe that any witness has been  
15 discredited in this matter, you may give the testimony  
16 of that witness whatever credibility, if any, you  
17 think it deserves.

18 The fact that the government is a party  
19 here -- that the prosecution is brought in the name of  
20 the United States of America -- entitles it to no greater  
21 consideration than that accorded to any other party to  
22 litigation. By the same token, it is entitled to no  
23 less consideration.

24 This case should be considered and decided  
25 by you as an action between parties of equal standing



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2 in the community. All persons stand equal before the  
3 law and are to be dealt with as equals in a court of  
4 justice.

5 Admissions of the defendant are among the  
6 most effectual proofs in the law, and constitute the  
7 strongest evidence against the party making it that  
8 can be given of the facts stated in the admission.  
9 Accordingly, you are entitled to give great weight to  
10 the defendant's admissions in this case. But, as with  
11 all the evidence, it is for you to determine what  
12 weight to give to the admissions.

13 Certain of the witnesses called in this case  
14 have been identified to you as expert witnesses. These  
15 have been Mr. Gustavo Hoffman regarding Spanish to  
16 English translations, Special Agent Lile of the FBI  
17 regarding the validity of the passports of defendants  
18 Mejias and Rojas, and Agent Nieves regarding the market  
19 price of cocaine on the street in the year 1974. Each  
20 of these men is qualified to render expert opinion  
21 relative to his area of expertise.

22 The law permits such an expert witness to  
23 testify in the form of an opinion, and the opinions  
24 stated by these experts are based on particular facts  
25 as the expert himself has observed them or as the

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2 attorney who questioned him has asked him to assume.

3           However, the expert is subject to the same  
4 rules of credibility as any other witness. You may  
5 reject his opinion if you find the facts different than  
6 he assumed or if you find his testimony unconvincing, and  
7 you may accept or reject the testimony as you would the  
8 testimony of any other witness. The opinions of the  
9 experts must be considered by you, but are not control-  
10 ling in reaching a judgment. In short, you may give the  
11 expert testimony such weight as you feel it deserves.  
12 The determination in this case rests with you, not with  
13 the experts.

14           There has been testimony with respect to the  
15 use by various law enforcement agents of the services  
16 of a person referred to as an informer or informant.  
17 These services are availed of by government agents to  
18 obtain leads and gain introduction to persons suspected  
19 of violating the law. There are certain types of crimes  
20 where, without the use of informants, detection would  
21 be extremely difficult.

22           The law permits the use of informers, provided  
23 the rights of a defendant are not violated. Whether or  
24 not you approve of the use of an informant in an effort  
25 to detect violations of the law is not to enter into



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2 your deliberations.

3 As I advised you at the start of this trial,  
4 the indictment is merely an accusation, a charge. It is  
5 not evidence or proof of a defendant's guilt and no  
6 inference of any kind may be drawn from the indictment.

7 The government has the burden of proving the  
8 charges against each defendant beyond a reasonable  
9 doubt. It is a burden that never shifts and remains  
10 upon the government throughout the entire trial. A  
11 defendant does not have to prove his innocence. On  
12 the contrary, he is presumed to be innocent of the  
13 accusation contained in the indictment.

14 The presumption of innocence was in his favor  
15 at the start of the trial, continued in his favor through-  
16 out the trial, is in his favor even as I instruct you  
17 now. It remains in his favor during the course of your  
18 deliberations in the jury room.

19 It is removed only if and when you are satis-  
20 fied that the government has sustained its burden of  
21 proving the guilt of a defendant beyond a reasonable  
22 doubt.

23 Now, what is a reasonable doubt? It is a  
24 doubt based on reason, which arises from the evidence  
25 or lack of evidence in the case. It is a doubt that

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2 a reasonable man or woman might entertain. It is not  
3 a fanciful or speculative doubt; it is not an imagined  
4 doubt, it is not a doubt that a juror might conjure  
5 up in order to avoid performing an unpleasant task  
6 or duty.

7 It is not proof to an absolute certainty.  
8 Let me repeat -- it is a reasonable doubt. It is a doubt  
9 that appeals to your reason, to your judgment, your  
10 common understanding and your common sense -- a doubt  
11 that would cause you to hesitate to act in matters of  
12 importance in your daily lives.

13 On the other hand, the government does  
14 not have to prove the guilt of a defendant beyond  
15 all possible doubt or to a positive certainty. If  
16 that were the rule, few people, however guilty they might  
17 be, would be convicted. If, when you consider the evidence  
18 in this case, you have a reasonable doubt that the  
19 government has proved any element of the crime charged,  
20 then you must return a verdict of acquittal.

21 You may not return a guilty verdict simply  
22 because you feel that it is more likely than not  
23 that a defendant committed the crime charged. A guilty  
24 verdict is only appropriate if each and every one of you  
25 is satisfied that a defendant's guilt has been proved



1 arbr 12

2 beyond a reasonable doubt.

3 The indictment in this case contains five  
4 counts. Each of these counts charges a separate offense  
5 or crime. Each of the defendants before you is charged  
6 in Count One; various of the defendants are charged in  
7 Counts Two through Five.

8 It is your obligation to consider separately  
9 each of the individual charges, or counts of the indict-  
10 ment, and to decide whether, as to each count, the  
11 government has or has not sustained its burden of proving  
12 beyond a reasonable doubt the guilt of each defendant  
13 of the charge in that particular count.

14 The indictment names ten defendants. Only  
15 eight of these defendants are on trial before you.  
16 They are: REV. ALBERTO MEJIAS, MARIO NAVAS, also  
17 known during the trial as Evangelista Navas, ESTELLA  
18 NAVAS, HENRY CIFUENTES-ROJAS, also known during the  
19 trial as Juan Jose Plata, JOSE RAMIREZ-RIVERA, also  
20 known during the trial as Jose Ramirez, MANUEL FRANCISCO  
21 PADILLA MARTINEZ, also known during the trial as Francisco  
22 Padilla, FRANCISCO CADENA, also known during the trial  
23 as Francisco Salazar and ALBA LUZ VALENZUELA.

24 These are the only persons whose guilt or  
25 innocence you must announce in your verdict. In the determina-

1 arbr 13

2 tion of innocence or guilt, you must bear in mind that guilt  
3 is personal. The guilt or innocence of the defendants  
4 on trial before you must be determined separately with  
5 respect to them, solely on the evidence presented, or the  
6 lack of evidence. In other words, the case against each  
7 defendant stands or falls upon the proof or lack of proof  
8 of the charges against him, and not against someone else,  
9 although, as I will explain to you shortly, in consider-  
10 ing a particular defendant's guilt or innocence, you may  
11 have to determine the nature of the participation, if  
12 any, of the other named defendants.

13 Some of the defendants and co-conspirators  
14 named in the indictment are not on trial before you;  
15 you are not to speculate as to why any such individual  
16 is not on trial.

17 Let us now turn to the indictment in this  
18 case. The indictment charges in five counts that the  
19 defendants, or various of the defendants, violated  
20 federal narcotics laws. The first count charges the  
21 eight defendants before you, and two other named defend-  
22 ants, and a long list of co-conspirators with conspiracy  
23 to violate federal narcotics laws. I will refer to the  
24 first count as the conspiracy count.

25 Counts Two through Five charge various of the



1 arbr 14

2 defendants with substantive or actual violations of the  
3 federal narcotics laws.

4 Let me further explain the difference between  
5 the conspiracy count and the substantive count.

6 A conspiracy to commit a crime is an entirely  
7 separate and distinct offense from the substantive  
8 crime which is the object of the conspiracy. In order  
9 to find a **defendant** guilty of conspiracy, there is no  
10 need to prove that the substantive crime which is the  
11 object of the conspiracy has been committed. The essence  
12 of the crime of conspiracy is an agreement or understand-  
13 ing to violate other laws. Thus, it is a criminal offense  
14 if two or more persons conspire to commit an offense  
15 against the United States, and one or more of such persons  
16 do any act to effect the object of the conspiracy.

17 The charge in Count One, the conspiracy count,  
18 relates to a violation of the federal narcotics laws.  
19 These laws are set out in Title 21 of the United States  
20 Code, Section 841 of Title 21 provides, in pertinent  
21 part, that:

22 " ... it shall be unlawful for any person  
23 knowingly or intentionally --

24 to manufacture, distribute, or dispense,  
25 or possess with intent to manufacture, distribute, or

1 arbr 15

2 dispense, a controlled substance;"

3 Section 812 sets forth "controlled substances" in various  
4 schedules, Schedule II of Section 812 lists cocaine  
5 as a controlled substance.

6 Finally, Sections 846 and 963 of Title 21 make  
7 it a crime to conspire to commit certain offenses,  
8 including the offenses defined in Section 841.

9 I shall now read Count One to you, except the  
10 alleged overt acts:

11 The Grand Jury charges:

12 1. From on or about the 1st day of January,  
13 1972, and continuously thereafter up to and including  
14 October 4, 1974 in the Southern District of New York and  
15 elsewhere, Rev. Alberto Mejias, a/k/a Rev. Angel Ortiz,  
16 a/k/a Rev. Roneld Powem, a/k/a Francisco Ignacio Roldan Mejia,  
17 Mario Navas, a/k/a Mario Rodriguez, a/k/a Victor Jaramillo,  
18 a/k/a Isidoro Colon;  
19 Estella Navas, a/k/a Estella Rodriguez, a/k/a Maria Torres;  
20 Henry Cifuentes-Rojas, a/k/a Botellon, a/k/a Botello,  
21 a/k/a Freddy Valdes, a/k/a Oscar Gomez, a/k/a Oscar Vega,  
22 a/k/a Carlos Vega, a/k/a Jose Lopez Morales;  
23 Jose Ramirez-Ramirez-Rivera, a/k/a Hugo, a/k/a Juan Ramirez;  
24 Manuel Francisco Padilla Martinez;  
25 Francisco Cadena, a/k/a Francisco Salazar;



1 arbr 16  
2 Alba Luz Valenzuela, and two other defendants and a list  
3 of co-conspirators who are named herein as co-conspirators  
4 but not as defendants, and others to the grand jury known  
5 and unknown (hereinafter "unindicted co-conspirators"),  
6 unlawfully, intentionally and knowingly combined, conspired  
7 and confederated and agreed together and with each other  
8 to violate Sections 812, et cetera of Title 21, United  
9 States Code.

10 In paragraphs 2 and 3 they set out the  
11 various means that were used and I will only advert to  
12 those means which I in my recollection recall that there  
13 was some evidence touching upon.

14 2. It was part of said conspiracy that the  
15 defendants and unindicted co-conspirators unlawfully,  
16 intentionally and knowingly would manufacture and distribute  
17 large quantities of a Schedule II narcotic drug controlled  
18 substance, to wit, cocaine, in Colombia, South America and  
19 elsewhere to the grand jury unknown, intending and knowing  
20 that such cocaine would be unlawfully imported into the  
21 United States in violation of Sections 812, et cetera.

22 5. It was further a part of said conspiracy  
23 that, after cocaine was imported into the United States,  
24 the defendants and unindicted co-conspirators unlawfully,  
25 intentionally and knowingly would transport the cocaine

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2 into the boroughs of Manhattan and Queens, in New York  
3 City and elsewhere and would there distribute and possess with  
4 the intent to distribute cocaine in violation of the sections  
5 indicated.

6 6. It was further a part of said conspiracy  
7 that the defendants and unindicted co-conspirators unlaw-  
8 fully, intentionally and knowingly would distribute cocaine  
9 and would possess it with the intent to distribute it in  
10 New York City and elsewhere in large quantities, the exact  
11 amount thereof to the grand jury **unknown**, in violation of  
12 the sections indicated.

13 9. It was further a part of said conspiracy  
14 that the defendants and unindicted co-conspirators wilfully  
15 and knowingly would use false documents and would use  
16 false identities in obtaining apartment leases, automobile  
17 rentals, driver's licenses, telephone listings and pass-  
18 ports.

19 10. It was further a part of said conspiracy  
20 that the defendants and unindicted co-conspirators wilfully  
21 and knowingly would disguise their written and oral communi-  
22 cations made in furtherance of this conspiracy.

23 11. It was further a part of said conspiracy  
24 that the defendants and unindicted co-conspirators would  
25 collect large sums of United States currency in payment for



1 arbr 18  
2 the cocaine they sold and converted into money orders of \$500  
3 and other denominations.

4 In order to find any of the defendants guilty  
5 of a conspiracy, as charged in Count One you must be  
6 satisfied that the government has proved the following  
7 elements beyond a reasonable doubt:

8 First: You must find the existence of the  
9 conspiracy charged in Count One. In this regard, you  
10 must find that some time between January 1, 1972, and  
11 October 4, 1974, in the Southern District of New York  
12 -- and I charge you that Manhattan and Bronx Counties  
13 are within the Southern District of New York -- an agreement  
14 existed between all of the defendants on trial or between  
15 any two or more of them to violate federal laws prohibiting  
16 the distribution and possession with the intent to distribute  
17 cocaine.

18 In this regard, you need not find that the  
19 conspiracy existed for the entire time mentioned in the  
20 indictment, or that the agreement was to accomplish all  
21 the objectives listed in the indictment. It is suffi-  
22 cient if it is shown that the agreements existed for  
23 any part of the time alleged, and that its purpose was  
24 either to distribute or possess with intent to distribute  
25 cocaine. Also, as I shall explain in further detail

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2 later, you need not find that all the persons mentioned  
3 reached an agreement. An agreement between any two of  
4 the defendants or between any one defendant and another  
5 alleged co-conspirator is sufficient.

6 Second: That while the conspiracy was still  
7 in existence, the defendant whose guilt or innocence  
8 you are considering knowingly and willfully associated  
9 himself with the conspiracy with knowledge of its alleged  
10 criminal purpose.

11 Third: that while the conspiracy was still  
12 in existence, at least one of the alleged conspirators,  
13 not necessarily the defendant you are considering,  
14 knowingly committed at least one of the overt acts set  
15 forth in the indictment at or about the time and place  
16 alleged; and that such act was committed in furtherance  
17 of the conspiracy.

18 If the government fails to establish each of  
19 these three elements as to any of the defendants,  
20 beyond a reasonable doubt, you must acquit those defend-  
21 ants as to whom the government has failed to establish  
22 any element of this count. If the government succeeds  
23 in satisfying this burden as to a particular defendant,  
24 your duty is to convict that defendant on this count.

25 Now let me elaborate more fully on each of



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2 the elements of Counts One. As I have informed you,  
3 the first of the elements which you must find that the  
4 government has proved beyond a reasonable doubt is that  
5 the conspiracy charged in the indictment existed. First,  
6 I want to discuss with you what the term "conspiracy"  
7 means because the term is here used in a legal context  
8 and therefore has a somewhat different meaning than it  
9 has when it is used colloquially.

10 What is a conspiracy? A conspiracy is a com-  
11 bination or agreement, of two or more persons, to  
12 accomplish a criminal or unlawful purpose. The gist  
13 of the crime of conspiracy is the unlawful combination  
14 or agreement to violate the law. Whether or not the  
15 conspirators fully accomplished what is alleged  
16 they conspired to do, is immaterial. That is to say,  
17 the government is not obliged to prove that a purpose of  
18 the conspirators was attained.

19 It has often been said that a conspiracy is  
20 a partnership in crime in which each member becomes  
21 the agent of every other member. To establish a  
22 conspiracy, however, the government is not required  
23 to show that the alleged conspirators sat around a  
24 table and entered into a solemn compact, orally or in  
25 writing stating that they have formed a conspiracy

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2 to violate the law and setting forth details of the plans.  
3 It is sufficient if two or more persons, in any manner,  
4 through any contrivance, impliedly or tacitly, come to a  
5 common understanding to violate the law. Express language or  
6 specific words are not required to indicate assent or  
7 attachment to a conspiracy.

8 On the other hand, mere similarity of con-  
9 duct among various persons, and the fact that they  
10 may have assembled together and discussed common aims and  
11 interests, does not necessarily establish proof of the  
12 existence of a conspiracy.

13 If, upon consideration of all the evidence,  
14 direct and circumstantial, testimonial and documentary,  
15 you find beyond a reasonable doubt that the minds of  
16 at least two of the alleged conspirators met in an  
17 understanding way and that they agreed, as I have  
18 explained a conspiratorial agreement to you, to work  
19 together in furtherance of the unlawful scheme alleged  
20 in the indictment, then proof of the existence of the  
21 conspiracy is satisfied.

22 It is contended here that the government has  
23 failed to prove the existence of only one alleged con-  
24 spiracy but has proved several separate and independent  
25 alleged conspiracies involving various of the defendants.



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2 Proof of such several separate and independent  
3 conspiracies is not proof of the single, overall con-  
4 spiracy charged in the indictment, unless one of the  
5 several conspiracies which is proved is the single  
6 conspiracy which the indictment charges. What you  
7 must do is determine whether the conspiracy charged  
8 in the indictment existed between two or more conspirators.  
9 If you find that no such conspiracy existed, then you  
10 must acquit. However, if you are satisfied that such  
11 a conspiracy existed, you must determine who were the  
12 members of that conspiracy.

13 If you find that a particular defendant is  
14 a member of another conspiracy, not the one charged  
15 in the indictment, then you must acquit that defendant.  
16 In other words, to find a defendant guilty you must  
17 find that he was a member of the conspiracy charged  
18 in the indictment and not some other conspiracy.

19 In determining whether there was a single  
20 overall conspiracy, you may consider what the evidence  
21 shows as to time, parties, or objects, and changes of  
22 personnel and activity. You may find a single con-  
23 spiracy even though there were changes in personnel  
24 and activities, provided you find that some of the  
25 co-conspirators continued throughout the life of the

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alleged conspiracy, and that the purpose of the alleged conspiracy continued to be those charged in the indictment.

The fact that the parties are not always identical does not mean that there are separate conspiracies. In other words, if at all times the alleged conspiracy had the same overall primary purpose and the same nucleus of participants, the alleged conspiracy would be the same basic scheme even though in the course of its operation additional alleged conspirators joined in and performed functions to carry out the scheme while others were not active or had terminated their relationship.

On the other hand, if you find that one overall conspiracy terminated and another one was formed, you may not find a single conspiracy even though the purpose of both conspiracies were the same and that some of the defendants were members of both.

If you find that a conspiracy existed beyond a reasonable doubt, then you must consider the second element of the conspiracy count; that is, whether the government has established beyond a reasonable doubt that the defendant whose guilt or innocence you are considering knowingly and willfully became a participant



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2 in the conspiracy with knowledge of its alleged criminal  
3 purpose, and in furtherance of its unlawful objectives.

4 You may not assume that a defendant joined  
5 a conspiracy simply because you are convinced that he  
6 knew or was associated or had other dealings with people  
7 who conspired to violate the law.

8 I charge you that mere association, even  
9 close or repeated association, with some alleged  
10 member of the conspiracy is not sufficient, in and of  
11 itself, to support a finding that a defendant was a  
12 member of the alleged conspiracy. Nor may you infer  
13 that Estella Navas wa a member solely from the fact  
14 that she was married and lived with Mario Navas.

15 Nor may you infer and find that Alba Luz  
16 Valenzuela was a member of the conspiracy merely because  
17 you believe that she had an intimate sexual relationship  
18 with one of the other defendants.

19 In addition, I instruct you that none of the  
20 following is sufficient, in and of itself, to support  
21 a finding that a defendant was a member of the alleged  
22 conspiracy: mere attendance at a meeting with co-  
23 conspirators; or mere presence at the scene of the crime;  
24 or mere knowledge of conspiratorial acts or objectives,  
25 or mere unwitting participation.

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2           The mere fact that two persons are on trial  
3 together cannot be considered in any way as indicating  
4 that they participated in a conspiracy to violate the  
5 law.

6           All of the conspirators need not be acquainted  
7 with each other. They may not have previously associated  
8 together. One of the defendants may know only one other  
9 member of the conspiracy, but if he enters into an unlaw-  
10 ful agreement with that other member of the conspiracy,  
11 he becomes a party thereto.

12           To conclude that a defendant was a member of  
13 a conspiracy, you must find that he knew the unlawful  
14 purpose of the alleged conspiracy, that knowing the  
15 purpose he intentionally joined in the endeavor, and  
16 that he had an interest in making it succeed. It is  
17 not necessary, however, that you find that each con-  
18 spirator was fully informed as to the details or the  
19 full scope of the conspiracy, or participated in every  
20 aspect of the conspiracy.

21           Similarly, you need not find that all  
22 of the alleged co-conspirators knew each other.  
23 A person becomes a member of a conspiracy by associating  
24 himself with a common plan or scheme, knowing the  
25 central aim or principal purpose of that common plan



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2 or scheme and intending to help bring about its success  
3 To repeat, in order to find a defendant guilty on the  
4 conspiracy count, you must find beyond a reasonable doubt  
5 that the defendant acted knowingly and willfully.  
6 Specifically, you must find **that the defendant knowingly**  
7 **and willfully** became a participant in the conspiracy with  
8 knowledge of its unlawful purpose and intending to help  
9 bring about its success.

10 Knowledge, willfulness and intent exist in the  
11 mind. Since it is not possible to look into a man's  
12 mind to see what went on, the only way you have of  
13 arriving at a decision on these questions is for you  
14 to take into consideration all the facts and circum-  
15 stances shown by the evidence, including the exhibits,  
16 and to determine from all such facts and circumstances  
17 whether the requisite knowledge, willfulness and intent  
18 were present at the time in question.

19 An act is done knowingly if it is done  
20 voluntarily and purposefully and not because of mistake,  
21 inadvertence or other innocent reason.

22 An act is willful if it is done knowingly,  
23 deliberately and with an evil purpose. An act is not  
24 done wilfully if it is done as a result of a mistake,  
25 carelessness, lack of an evil purpose, or for some

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2 other innocent reason.

3 It is not necessary for you to find that a  
4 defendant knew he was breaking a particular law and  
5 whether or not an act is knowing or willful has nothing  
6 to do with the defendant's personal or private reasons  
7 for committing the act, so long as the act is done  
8 with an evil purpose.

9 The government has contended that various of  
10 the defendants attempted to conceal their activities,  
11 for example, through the use of codes, fictitious names  
12 or false documents. Such evidence, if you find it  
13 credible, may be considered by you in determining the  
14 issues of knowledge, willfulness and intent.

15 Once you have found the conspiracy to exist  
16 and a particular defendant to have knowingly and will-  
17 fully participated in it with knowledge of its unlawful  
18 purpose, the extent of his participation has no bearing  
19 on his guilt or innocence. The guilt of a conspirator  
20 is not measured by the extent or the duration of his  
21 participation. Even if he participated in it to a  
22 degree more limited than that of his co-conspirators,  
23 he is equally culpable so long as he was in fact a con-  
24 spirator.

25 Similarly, it is not required that a person



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be a member of the conspiracy from its very start. A defendant may join a conspiracy at any point while it is in progress, and be held responsible for all that has been done before he joined, and all that may be done thereafter during the existence of the conspiracy and while he remains a member of the conspiracy.

Moreover, a conspiracy, once formed, is presumed to have continued until its objectives have been accomplished or until there has been an affirmative act by the members of the conspiracy to terminate it. Similarly, once a person is found to be a member of a conspiracy, he is presumed to continue his membership until the termination of the conspiracy or until he affirmatively withdraws or disassociates himself from it.

For a single act to be sufficient to draw an actor within the ambit of a conspiracy to violate the federal narcotics laws, there must be independent evidence tending to prove that the defendant in question had some knowledge of the broader conspiracy, or the single act itself must be one from which such knowledge may be inferred. Thus, absent proof of knowledge of a broader conspiracy, a single act such as delivery of drugs, or actual sale or purchase is insufficient evidence from which to draw an inference that a defendant

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2 knew about or acquiesced in the larger conspiracy.

3 However, conduct consisting only of involve-  
4 ment in a single transaction may nevertheless be treated as  
5 rationally permitting the inference of knowledge of the  
6 broader conspiracy where the single act itself shows so much  
7 familiarity with or high-level participation in the  
8 overall conspiracy as to be in and of itself indicative  
9 of the broader conspiracy.

10 Now let me instruct you as to how you are to  
11 consider the acts and statements of the alleged co-  
12 conspirators.

13 You will recall that throughout the trial  
14 the acts and statements of one alleged co-conspirator  
15 in the absence of other alleged co-conspirators were  
16 received only with respect to the particular person  
17 or persons making them.

18 If you find that a conspiracy existed, then  
19 in considering the second element, whether or not a  
20 particular defendant was a member of the conspiracy,  
21 you may rely not only on his own statements but on  
22 the statements and declarations of the other alleged  
23 co-conspirators.

24 Moreover, if you find that a conspiracy existed,  
25 then any act or declaration made during the conspiracy,



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2 and in furtherance of it by a person found by you to  
3 have been a member of the conspiracy may be considered  
4 against a defendant, who you have found was also a member,  
5 even though **such** act or declaration was made in the  
6 absence and without the knowledge of that defendant.

7 Conversely, such acts or declarations of a  
8 conspirator which were made before the existence or  
9 after the termination of the conspiracy or which were  
10 not in furtherance of the conspiracy may be considered  
11 only against the person who made them.

12 In proving the charges against the defendants  
13 on trial before you, the Government introduced evidence of  
14 the acts and declarations of many co-conspirators who are not  
15 on trial here and are not named as defendants. You may  
16 not draw any inference, favorable or unfavorable, towards  
17 the government or the defendants on trial from the fact that  
18 certain persons were not named as defendants or conspirators  
19 or, having been named, are not on trial before you now.  
20 You are not to speculate as to the reasons why certain  
21 individuals are not on trial or are not named as defendants.  
22 Those matters are wholly outside your concern and have no  
23 bearing on your function as jurors.

24 Now we come to the third element you must  
25 consider as to Count One. If you have found that the

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2 alleged conspiracy existed and that the defendant whose  
3 guilt you are considering was a member of it, then you  
4 must consider the "overt act" requirement.

5 The offense of conspiracy is complete when  
6 the unlawful agreement is made and any single **overt act**  
7 is done by one of the alleged conspirators in furtherance  
8 of the conspiracy.

9 By the term "overt act" we mean an act com-  
10 mitted in an effort to accomplish or further some object  
11 or purpose of the conspiracy. The overt act in this  
12 sense need not be a crime in itself. It must, however, be an  
13 act which follows from the conspiracy and is directed toward  
14 accomplishment of the criminal purpose of the conspiracy.  
15 I will not read the overt acts charged in the indictment.  
16 I will not read all of the overt acts because there are  
17 some 80 odd that **are listed in the indictment.**

18 I will only read those overt acts that to my  
19 recollection indicate there was some evidence introduced  
20 as to them by the government.

21 No. 13. On or about January 31, 1974, at  
22 approximately 7:40 p.m., co-conspirator Lilia Prada  
23 possessed approximately 1/4 pound of cocaine inside  
24 apartment 4W, 243 West 107th Street, Manhattan, New York.

25 14. On or about February 5, 1974, defendant



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2 Mario Navas sold approximately 3 ounces of cocaine in the  
3 presence of Detective Luis Ramos at 118 West 109th Street,  
4 Manhattan, New York.

5 No. 16. On or about March 5, 1974 at 132-65  
6 Pople Avenue, Queens, New York, defendant Mario Navas and  
7 others to the grand jury unknown, were sifting a white powder  
8 at a table on which was placed a firearm.

9 No. 21. On or about May 8, 1974, between  
10 approximately 9:55 p.m. and 10:36 p.m., defendant Henry  
11 Cifuentes-Rojas attempted to telephone Medellin, Colombia  
12 at the request of co-conspirator Francisco Javier Velez-Morales  
13 from the latter's apartment, No. 10F, 215 East 64th Street,  
14 Manhattan, New York.

15 No. 23. On or about May 13, 1974 defendant  
16 Rev. Alberto Mejias entered 215 East 64th Street,  
17 Manhattan, New York.

18 25. On or about June 6, 1974, defendant  
19 Rev. Alberto Mejias wrote a letter in which he reported  
20 his receipt of cocaine to co-conspirator John Doe, a/k/a  
21 Carlos Julio.

22 33. On or about June 6, 1974, at approximately  
23 5:18 p.m., defendant Juan Guillermo Mesa told defendant  
24 Estella Navas that co-conspirator Daniel Torres would  
25 depart Munich, Germany on Lufthansa Airlines flight No. 408,

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carrying cocaine, and would arrive in New York about noon,  
July 7, 1974.

(Continued on next page.)

Not 3pm



pg 1

You need only find beyond a reasonable doubt that any one and not all of these acts was committed, and that it was committed during and in furtherance of the conspiracy by a member of the conspiracy.

If you find beyond a reasonable doubt that such a conspiracy existed as charged in the indictment, and that during the existence of the conspiracy at least one of the overt acts alleged was knowingly done by one or more of the conspirators in the furtherance of some object of the conspiracy, proof of the conspiracy offense is then complete. It is complete as to each defendant found by you, the jury, beyond a reasonable doubt, to have been knowingly and wilfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators committed the overt act.

While the indictment charges in count one that the conspiracy existed from on or about January 1, 1972, and continuously thereafter up to and including October 4, 1974, I repeat that it is not essential that the government prove that the conspiracy started and ended on or about those specific dates. It is sufficient if you find that in fact a conspiracy was formed and existed for some substantial time within the period set

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forth in the indictment, and that at least one overt act was committed in furtherance thereof in that period.

Similarly, it is not necessary for the government to prove that each member of the conspiracy committed or participated in any particular overt act, since the act of any member of the conspiracy done in furtherance of the conspiracy becomes the act of all the other members.

In addition, the government must show that at least one over act was committed in the Southern District of New York. I charge you that the Southern District of New York includes the Borough of Manhattan and the Bronx, New York.

Now, let us turn to Counts 2 through 5 of the indictment, which read as follows: They're all virtually the same except for the names of the parties.

Count two: On or about the 5th day of February, 1974, in the Southern District of New York, Mario Navas, a/k/a Mario Rodriguez, a/k/a Victor Jaramillo, a/k/a Isidoro Colon, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 8 3/4 ounces of cocaine.



par3

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Count three: On or about the 10th day of July, 1974 in the Southern District of New York, Mario Navas, a/k/a Mario Rodriguez, a/k/a Victor Jaramillo, a/k/a Isidoro Colon and Estella Navas, a/k/a Estella Rodriguez, a/k/a Maria Torres, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately one (1) pound of cocaine.

Count four: On or about the 3rd day of September, 1974, in the Southern District of New York, Rev. Alberto Mejias, a/k/a Rev. Angel Ortiz, a/k/a Rev. Ronel Powem, a/k/a Francisco Ignacio Roldan Mejia, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 1-3/4 ounces of cocaine.

Count five: On or about the 3rd day of September, 1974, in the Southern District of New York, Henry Cifuentes-Rojas, a/k/a Botellon, a/k/a Botello, a/k/a Freddy Valdes, a/k/a Oscar Gomez, a/k/a Oscar Vega, a/k/a Carlos Vega, a/k/a Jose Lopez Morales and Jose Antonio Lopez, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to

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distributed a Schedule II narcotic drug controlled substance, to wit, approximately 3-3/4 pounds of cocaine.

With respect to these counts, the applicable statute is one which I have already read to you in connection with count one, namely, Section 841 of Title 21 of the United States Code. Once again Section 841 provides in pertinent part:

"It shall be unlawful for any person knowingly or intentionally to distribute or possess with intent to distribute. . . a controlled substance."

In order to return a verdict of guilty for the crime charged in counts two through five of the indictment, you must find three elements to have been proved beyond a reasonable doubt:

(1) First, you must find beyond a reasonable doubt that on or about the date specified in each count, the defendant or defendants whose guilt or innocence you are considering did distribute or possess with intent to distribute a narcotic drug controlled substance.

(2) Second, you must also find beyond a reasonable doubt that the substance which was possessed was, in part, a Schedule II narcotic drug controlled



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2 substance.

3 (3) Finally, you must find beyond a reason-  
4 able doubt that the defendant you are considering com-  
5 mitted the act of distribution or possession with intent  
6 to distribute unlawfully, wilfully, intentionally and  
7 knowingly.

8 Let me say a few words about each of these  
9 elements. With regard to the first element, you will  
10 note that I used the phrase "possess with the intent  
11 to distribute." What does that phrase mean? Well,  
12 the word "distribute" means the actual, constructive  
13 or attempted transfer of the drug. The word "possess",  
14 as used in the phrase "possess with the intent to dis-  
15 tribute", has its everyday common meaning, that is,  
16 to have something within one's control.

17 The law recognizes two kinds of possession:  
18 actual possession and constructive possession. A person  
19 who knowingly has direct physical control over a thing,  
20 at a given time, is then in actual possession of it.

21 A person who, although not in actual possession,  
22 knowingly has both the power and the intention, at a  
23 given time, to exercise dominion or control over a thing,  
24 either directly or through another person or persons,  
25 is then in constructive possession of it.

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1  
2 You must find beyond a reasonable doubt that  
3 the defendant was aware of the presence of the substance  
4 he was charged with possessing and knew it was a controlled  
5 drug. The government is not required to prove both  
6 distribution and possession with intent to distribute.  
7 It is sufficient for the government to prove either.

8 As to the second element, I have already  
9 instructed you that cocaine is a narcotic drug con-  
10 trolled substance. However, you must still be convinced  
11 beyond a reasonable doubt that the substance which  
12 various of the defendants are charged with distribut-  
13 ing or with possessing with intent to distribute was,  
14 in fact, cocaine.

15 With respect to this question, you must take  
16 note that the government and defense counsel entered  
17 into various stipulations that if certain chemists  
18 were called to testify, they would testify that certain  
19 government exhibits **consist** of cocaine. Such agree-  
20 ments as I advised you earlier, are the equivalent  
21 for your purposes of live testimony to the same effect  
22 by the named chemists.

23 As to the third element, an act is done know-  
24 ingly if it is done voluntarily and purposefully and not  
25 because of mistake, coercion, inadvertence or other



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innocent reason. As I have already indicated to you with regard to the conspiracy count, an act is wilful if it is done knowingly, deliberately and with an evil purpose. An act is not done wilfully if it is done as a result of mistake, carelessness, lack of an evil purpose or for some other innocent reason.

With respect to count three, it is not necessary for the government to show that a particular defendant physically committed the crime himself. A defendant may also be found guilty of the crime charged there if he has aided or abetted the commission of the crime in violation of Title 18, United States Code, Section 2. This section provides:

"(a) Whoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal.

"(b) Whoever wilfully causes an act to be done which if direct by performed by him or another would be an offense against the United States, is punishable as a principal."

Thus, a person who aids or abets another to commit an offense is just as guilty of that offense as he would be had he committed it himself.

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Accordingly, you may find Estella Navas guilty of the substantive offense charged in count three if you find beyond a reasonable doubt that Mario Navas committed the offense with which he is charged, and that Estella Navas aided or abetted him.

Before you can conclude that a person aided or abetted, you must first find that the substantive crime charged, in this case distributing ~~or~~ possessing with the intent to distribute cocaine, was in fact committed.

Secondly, you must determine that the defendant in some way knowingly and intentionally associated himself with the criminal venture, that he participated in it as something he wished to bring about, and that by his actions he tried to make the crime succeed. You must find more than the defendant's mere presence during or knowledge of the offense.

The one who aids and abets another in the commission of a crime is equally guilty with the person who actually and physically commits it.

In other words, if one, fully aware of what he is doing, plays a significant role in furthering and facilitating an act prohibited by law, he is equally guilty with the person who actually and physically



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1 performs the illegal act or acts, even though the latter  
2 played a much greater or major part in the penetration  
3 of the crime. Accordingly, you may find one defendant  
4 guilty of the offenses charged in count three if you  
5 find beyond a reasonable doubt that any of the named  
6 defendants committed the offenses with which they are  
7 charged in that count and that the first defendant  
8 aided and abetted him.  
9

10 With respect to the substantive counts alone,  
11 an admission or incriminating out-of-court statement  
12 made by one defendant may not be considered as evidence  
13 against another defendant not present when the statement  
14 was made.

15 As I have already instructed you, a different  
16 rule applies with respect to the conspiracy count.

17 I will now address myself to more general  
18 considerations which you must bear in mind during  
19 your deliberations.

20 First, I must emphasize again that there are  
21 eight defendants on trial here and you must consider  
22 separately whether the defendants charged have been  
23 proved guilty beyond a reasonable doubt.

24 It is your duty to give separate, personal  
25 consideration to the case of each defendant. When you

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1  
2 do so, you should analyze what the evidence in the case  
3 shows with respect to that individual, leaving out of  
4 consideration entirely, any evidence admitted solely with  
5 regard to other defendants. Each defendant is entitled  
6 to have his case determined from evidence as to his own  
7 acts and statements and conduct, and any other evidence  
8 in the case which may be applicable to him. The fact  
9 that you may find one or more of the accused guilty or  
10 not guilty on any particular count should not influence  
11 your verdict with respect to the other defendants or  
12 with respect to any other count.

13           During the course of this trial, the govern-  
14 ment presented certain tangible evidence which was  
15 derived from searches and seizures by law enforcement  
16 officers, for example, narcotics, photographs, identi-  
17 fication cards, and personal telephone books. The laws  
18 which govern the legality of searches and seizures are  
19 designed to protect the right of privacy of the persons  
20 and places which were searched. With respect to all  
21 the evidence in this trial which has been the product  
22 of a search and seizure, I have found that the searches  
23 and seizures were conducted according to law or that  
24 the defendant raising a question of the legality of a  
25 particular search and seizure had no right or interest



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which could have been violated by an improper search and seizure. Thus, during your deliberations, questions regarding whether or not any particular evidence was legally seized are not before you. This is a question for the consideration of the Court alone.

The defendants in this case have not taken the stand to testify.

As I told you before, the government has the burden of proving the charges against each defendant beyond a reasonable doubt. A defendant does not have to prove his innocence. A defendant has the right to remain silent. He does not have to testify, or present any evidence or witnesses in his behalf, and you may not draw any inference or conclusion or form any prejudice because a defendant did not testify or present evidence.

Now, under your oath as jurors you cannot allow a consideration of the punishment which may be inflicted upon a defendant, if he is convicted, to influence your verdict in any way or in any sense enter into your deliberation.

The duty of imposing sentence rests exclusively upon the Court. Your function is to weigh the evidence in the case and to determine the guilt or innocence of a defendant solely upon the basis of such

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evidence and the law.

You are to decide the case upon the evidence, and the evidence alone, and you must not be influenced by any assumption, conjecture, or sympathy, or any inference not warranted by the facts.

If you fail to find beyond a reasonable doubt that the law has been violated, you should not hesitate for any reason to find a verdict of acquittal. But on the other hand, if you should find that the law has been violated as charged, you should not hesitate because of sympathy or any other reason to render a verdict of guilty.

I would like to point out that you should not enter the jury room with any preconceived pride of opinion. You should not be unwilling to be convinced by intelligent argument with your fellow jurors. Each juror has to answer to his or her own conscience, and each has to decide this case for himself or herself, but in so doing you should be willing to consider the views of the other jurors and to talk things out and try your best to reach a unanimous agreement.

Your verdict must be one with which each juror agrees.

If during your deliberations you deem it



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1  
2 necessary to have a copy of the indictment, or desire any  
3 of the exhibits, they will be sent in to you on request.  
4 If you wish any portion of the testimony read, any of  
5 the tapes replayed, or the Court's charge reread, that  
6 will be done.

7 Let me make a comment on that.

8 We have been here with evidence for roughly  
9 five weeks. If you wish to have the evidence reread  
10 to you or the tapes replayed or the Court's charge  
11 read, that will be done, but you must first exhaust your  
12 collective recollection. By "collective recollection"  
13 I mean the recollection of each of you together. You  
14 must exhaust that, and then at that point if you want  
15 to make a selective choice of something you want re-  
16 read, then it is available to you. I want to point that  
17 out because the way that counsel were arguing to you,  
18 it would appear that you might want to have us replay  
19 the five weeks you were here. Obviously that  
20 can't be done.

21 In conclusion let me say: Every criminal  
22 case is important. It is important to the government  
23 and it is important to the defendant. It is your  
24 obligation to decide the case on the evidence and on the  
25 law as I have charged it to you; I give the case to you

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1           pqrl4  
2           with the assurance that you will do just that.

3                       During the summations, as I recall, there  
4           was considerable reference to where certain witnesses  
5           were and to the fact that they were not called to testify.  
6           In one case I believe counsel for the government and  
7           for the defendant stipulated that the government did not  
8           know who the witness was or where the person was.    In  
9           other instances -- I think there were others -- there is  
10          no evidence as to the availability or unavailability of  
11          these witnesses.

12                      Assuming that any witnesses who were not  
13          called were available, I instruct you that in a federal  
14          criminal trial both the government and the defendants  
15          are entitled to receive from the clerk of the court a  
16          subpoena calling for the attendance of a witness, and no  
17          matter where the witness lives in the United States he's  
18          required to appear when served with such a subpoena.  
19          Any individual could have been called by either side  
20          as a witness so that from the failure of either side to  
21          call him or them you may infer that his or their testimony  
22          might have been unfavorable to either the government or the  
23          defendants, but it is equally within your discretion to  
24          draw no inference at all from the failure of the government  
25          or the defendants to call a particular witness.



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THE COURT: Let me say this:

I think I indicated to you when I read the overt acts and when I read the statement of the means that I was reading those items in the indictment, those paragraphs, it's my recollection that there was some evidence in regard to it.

It is your obligation to make the findings and not mine, as to whether those overt acts have been proved. As to whether there is sufficient evidence, that's your role and not mine. You have to find at least one of the overt acts has been proved beyond a reasonable doubt.

I also indicated that there was a stipulation among counsel that if a witness, if a chemist was called that he would testify that he had examined the substance and it was cocaine.

As to count 3, the substance of count 3, which adverts to an alleged transaction, I think on July 10, involving Mario Navas and Estella Navas, there was no physical evidence, no physical evidence, that was presented in this case in regard to that. There were no packages or things like that, therefore there was no stipulation entered into by counsel as to that. As to that you will have to make your own determination

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based upon the testimony of the witnesses you heard testify.

I have also told you about the availability of witnesses and the opportunity for each side to call witnesses. I want to emphasize to you that, again, a defendant is under no obligation to present witnesses. I merely indicate to you comments which had been made about the unavailability of witnesses, that if witnesses were available both sides could have called the witnesses.

I think that's all.

(Marshals were duly sworn at 5:05 p.m.)

THE COURT: I address the alternates: Your services are at an end and you may be excused. I don't have any idea how long the deliberations will take but I have told my clerk to take phone numbers. I hope you will be able to keep yourselves available just in case we may have a need for you, but I want to thank you for your services and it is gratifying. I know it has been a sacrifice. I hope you regard it as part of your duty.

Thank you.

You may be excused.

Miss Hopknins, I have made out what I call a special verdict. It's a list of various counts and



